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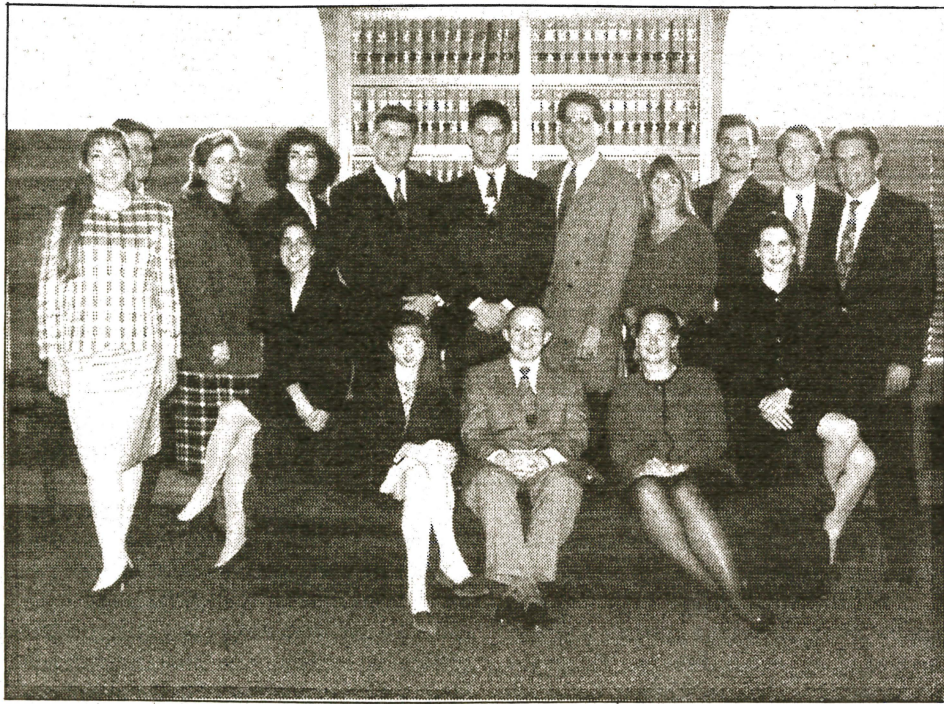
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MOTIONS.

Vol. XXII, No. 7 ★★★★★

FRIDAY, APRIL 1, 1994

SAN DIEGO, CALIFORNIA



The Volume 31 San Diego Law Review Board Leaves Office

Standing: Kathleen Brennan de Jesus, Managing/Associate Editor; L. Scott Oliver, Articles Editor; Sandra D. Turner, Comments Editor; Kim Boyer, Articles Editor; John Callahan, Comments Editor; Christian D. Humphreys, Editor-in-Chief; Matthew T. Wakefield, Executive Editor; Julie A. Vogelzang, Comments Editor; Timothy J. Tatrow, Comments Editor; David R. Johnson, Research Editor; Francis A. Bottini, Jr., Articles Editor. *Seated:* Sharon B. Spivak, Articles Editor; Marjeta D. Six, Comments Editor; Edward A. Pernal, Jr., Executive Editor; Kristen E. Harkness, Executive Editor; Kelly Ames Moorhead, Comments Editor. Not Pictured: C. Benjamin Nutley, Executive Comments Editor. The Volume 32 Board, led by Editor-in-Chief Deborah E. Bassham, is listed on Page 3 together with new provisional Law Review members invited after placing in the top five percent of the One-L class at the end of the fall semester. One-Ls who place in the top ten percent of their class will be invited to join in May.

USD Law School Faculty Rejects Fields Honor Court Revisions at Meeting

"The Rule of Law" Will Not Necessarily Be a "Law of Rules"

Less Procedure Preferred

BY ROBERT LITTLE

At its Friday meeting, the USD School of Law faculty rejected by informal vote a revised version of the student honor code advanced by Student Bar Association President Brad Fields.

The revised honor code would have made few substantive changes in the honor court system, but would have codified existing practice, retitled offices, and ensured a more careful look to precedent when the court determines sentencing.

The proposal had been advanced by Fields in his capacity as a student, not as SBA President. As a one-credit independent study project, Fields had studied other school's honor codes and worked with other students and faculty members on an equitable system of determining when violations of the honor code occur and how to remedy malfeasance by students.

The Fields proposal would have named

as Prosecutor the office previously titled Honor Court Counsel, institutionalized a system of "Defense Attorneys" from which defendants could choose an advocate, and required the Administration to maintain records of previous cases to help the court determine the appropriate sanction.

The proposal had been discussed by students with Fields, then discussed in three, one-hour meetings of the Faculty-Student Relations Committee under the chairmanship of Professor Darrell Bratton.

Fields reported in an interview with *Motions* that the March 25 meeting of the USD School of Law faculty included major discussion of his draft.

During the meeting, many faculty members expressed a desire for an honor code system with fewer procedures and a less adversarial system of determining truth. According to Fields, a faculty members preferred a very brief outline of the system which would merely create the court, but not define illicit conduct, provide a range of sanctions, or a system by which defendants could arrange for someone else to appear to defend them. "Some faculty members wanted a two-page--if that--outline of the honor court which would tell how students would be elected to serve on it, but leave most procedure and rules up to the court itself," Fields reported.

Bar Reviewing?

In our Centerfold section, we feature a review of five competing programs which assist law students in preparing for bar exams. We look at the BAR BRI, Barpassers, Lawlor, Fleming and PMBR programs.

Which course is best for you? Take a look at the competitors, starting on Page 8.

Milken, LL.D.?

1994 Commencement Speaker to be Drawn From a "New List" of Nominees

Group Includes Many With a "Peculiar" Relationship with Law

BY ROBERT LITTLE

Law students would be surprised to hear who could end up as 1994's Commencement Speaker next month. The list is, to say nothing else, a little strange. After reaching rejections with a long list of notables from law and politics, the Faculty-Student Relations Committee, which helps find speakers, is turning to a new list of potential honorary degree recipients with an unusual relationship with the law. Some are victims of the legal process, some are defendants: any from the new list would have a different perspective on American jurisprudence.

Different to say the least. The University of San Diego requires graduation speakers to be worthy of the honorary degree granted at commencement. University by-laws require a speaker to have a "strong commitment to social justice," a "history of commitment to the [legal] profession," or a "deeply-rooted sense of ethics and principles."

The exhausted list included mostly judges and politicians, including Hillary Rodham Clinton, Elizabeth Dole, and U.S. Circuit Judge Richard Posner. The new list includes, among others, former U.S. Attorney General Edwin Meese III (a former USD Law adjunct professor), former Assistant Attorney General-designee Lani Guinier, ex-Supreme Court nominee Robert H. Bork and financier Michael Milken.

Meese was an adjunct professor at USD in the late 1970s, Counsellor to the President in the early 1980s, then Attorney General. Long a close friend of President Ronald Reagan's, Meese starting serving Reagan in the 1960s when Reagan was Governor of California.

Lani Guinier, whose new book *The Tyranny of the Majority*, was released last month, was President Bill Clinton's designee to become Assistant Attorney General for Civil Rights. After protests from moderate and conservative U.S. Senators, Clinton withdrew her name from consideration for the post.

Former U.S. Court of Appeals Judge Robert H. Bork (D.C. Circuit) was nominated by Reagan in 1986 to join the Supreme Court upon the retirement of Lewis Powell. Bork was battered in hearings before the Senate Judiciary Committee and ultimately his nomination was not confirmed by the whole Senate.

Michael Milken, who sold bonds for the investment bank Drexel Burnham Lambert in Los Angeles, was convicted for violations of the Securities and Exchange Acts. After serving two-and-a-half years of his ten year sentence, Milken was released. A non-lawyer, Milken now oversees a philanthropic organization which bears his name.

Although these individuals are the most famous on the list, the Law School is concentrating on another controversial idea first. According to the Dean's Student Advisory Committee (DSAC), the first invitee will be San Diego's most famous recent criminal defendant Dale (Please Turn to Page 4, Column 1)

USD Places First In 26th Annual Roger J. Traynor Moot Court Competition

Jessup Team Wins Southwestern Regional Competition

BY CATHERINE COTTIS

Reflecting the talent of USD students' advocacy skills, this semester's Appellate Moot Court program has been very successful. On March 12, Dave Bigelow and Kate Flaherty from the Moot Court Board's National Team placed first in the 26th Annual Roger J. Traynor California Moot Court competition. Held at Stanford University, the Traynor Competition attracted 24 teams from 24 different law schools throughout California.

The Traynor competition typically revolves around Constitutional Law issues. This year's problem dealt with a statute which criminalized dissemination of unlawfully obtained information about the HIV status of identified individuals. Competitors argued whether or not that statute amounted to an unconstitutional prior restraint on speech.

Dave and Kate advanced through two preliminary rounds, a quarterfinal round and a semifinal round to meet Southwestern University Law School in the final round. The final round Bench included two Ninth Circuit Appellate judges, the

Chief Justice of the Court of Queen's Bench of Manitoba, Canada, and two experienced practitioners from Northern California. Congratulations to Dave and Kate!!

Also this semester, the four member USD Jessup International Law team won the southwestern regional competition in Denver, CO in February, and placed second in the written memorial competition.

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In the News--

Smoking Dope? Check out our book review on Marijuana Law. (Article on Page 2)

Interested in Public Interest Law? Read our article describing the joys to be had at the Center for Public Interest Law. (Article on Page 3)

Et Tu S.P.? Beware the Ides of March. Story by S.P. Jones (Story on Page 11)

Street Law Revisited. One woman's epiphany. (Article on Page 11)

The Motions Survey. The official Results. (Article on Page 13)

What's New at the Legal Research Center? New Books Recieved

COMPILED BY FRANKLIN A. WESTON
Senior Reference Librarian

ARENS, RICHARD. *Insanity Defense.* Shows what actually happened to the Durham rule during nearly two decades of its administration and how it was largely rejected by the psychiatric profession whose cooperation as expert witnesses was essential for its success.

BLOOM, JOSEPH D. *Management and Treatment of Insanity Acquittes: A model for the 1990s.* Explores the interface between the mental health and criminal justice systems in relation to the insanity defense, and describes and evaluates the system for managing insanity acquittes that was introduced in Oregon in 1978.

CARR, CRAIG L., ed. *The Political Writings of Samuel Pufendorf.* Presents the basic arguments and fundamental themes of the political and moral thought of Pufendorf. [Pufendorf is remembered as the architect and systematizer of the modern natural law tradition begun by Grotius.]

CHARLESWORTH, MAX. *Bioethics in a Liberal Society.* Discusses issues such as the ending of human life: suicide, the "right to die," euthanasia; new reproductive technologies such as in vitro fertilization and surrogacy; and ethical questions concerned with the distribution of limited health-care resources.

CHOO, ANDREW L.-T. *Abuse of Process and Judicial Stays of Criminal Proceedings.* Presents a fresh perspective on the judicial discretion under consideration by setting the discretion against the general backdrop of the law of criminal evidence, with reference to the protection of the innocent from wrongful conviction, and/or the protection of the moral integrity of the criminal process.

DANLEY, JOHN R. *The Role of the Modern Corporation in a Free Society.* Clarifies and evaluates the debate on corporate responsibility and provides a philosophical analysis underlying it: what role

should the modern corporation play in a free society?

FREDERICK, DAVID C. *Rugged Justice: The Ninth Circuit Court of Appeals and the American West, 1891-1941.* Portrays an important chapter of American judicial history and appeals of interests in American studies, Western history, and the courts.

FISSE, BRENT. *Corporations, Crime and Accountability.* Explains why accountability is rarely imposed under the present law, and proposes solutions which would help to extend responsibility to a wide range of actors.

FREY, R. G., ed. *Value, Welfare, and Morality.* Provides an overview, analysis, and possible resolutions to the nature of value and its relationship to welfare and morality.

FRIEDLAND, MARTIN L. *A Century of Criminal Justice: Perspectives on the development of Canadian law.* Surveys the forces shaping the Canadian criminal justice system over the last 100 years.

GRABER, PETER M., ed. *The Mexico - U.S. Free Trade Agreement.* Offers answers from experts to the question: What effect would NAFTA have on the U.S. economy?

JAFFA, HARRY V. *Original Intent and the Framers of the Constitution: A disputed question.* Contributes to the debate over original intent, natural law, and the need for judges to interpret, not make law. Quotes and argues with Ed Meese, Bork, Rehnquist and others.

KUENNE, ROBERT E. *Economic Justice in American Society.* Offers thoughts on the economic discord and structural economic troubles the U.S. must face in meeting the needs of the elderly, handicapped, and the impoverished.

LaPIANA, WILLIAM P. *Logic & Experience: The origin of modern American legal education.* Studies the intellectual and institutional history of the transforma-

tion of American legal education during the 19th and 20th centuries.

LODGE, MARC. *Within the Bounds: A novel.* Covers the story of a lawyer's defense of a psychopathic serial killer, and the lawyer's relationship with his law firm.

MacCALLUM, GERALD C., jr. *Legislative Intent and Other Essays on Law, Politics, and Morality.* Discusses legal reasoning, the applications of rules, the interpretation of statutes and constitutional provisions, and the relation of these matters to morality and justice.

McNEILL, PAUL M. *The Ethics and Politics of Human Experimentation.* Discusses the ethics of human experimentation and asks the question: who defends the interests of these human subjects and ensures that they are not harmed?

McWILLIAMS, PETER. *Ain't Nobody's Business If You Do: The absurdity of consensual crimes in a free society.* Examines consensual crimes and their role and cost to a "free society."

MELLERS, BARBARA A., ed. *Psychological Perspectives on Justice: Theory and applications.* Explores our intuitions about fairness in the distribution of costs and benefits of justice.

MENENDEZ, ALBERT J. *The December Wars: Religious symbols and ceremonies in the public square.* Traces the history of the dispute as far back to the 4th century, and describes the complex legal tangles from modern local councils to the Supreme Court.

PERRY, MICHAEL J. *The Constitution in the Courts: Law or politics?* Disentangles and addresses the controversial issues: What is the argument for judicial review? What approach to constitutional interpretation should inform the practice of judicial review? How large or small a role should the Court play in bringing the interpreted Constitution to bear in resolving constitutional conflicts? And, To what extent are the Court's most controversial decisions-

-such as those about racial segregation, sexual discrimination, abortion, and homosexuality--sound, and to what extent are they problematic?

PHILIPSON, TOMAS J., and RICHARD A. POSNER. *Private Choices and Public Health: The AIDS epidemic in an economic perspective.* Offers controversial ideas and alternative solutions to the government's regulations and preventative measures to control and prevent the spread of AIDS.

SCHWARTZ, HELENE E. *Lawyering.* Describes legal tactics and strategy before, during, and after courtroom appearance; and also offers an amusing and dismaying account of the working atmosphere and frequent warfare in a conventional law office.

SHUTE, STEPHEN. *Action and Value in Criminal Law.* Ranges across moral luck, mistake, and mental illness; and retrieves material from traditional criminal law classifications, breaks down false associations, reveals hidden truths, and establishes new patterns of thought.

TOMASKOVIC-DEVEY, DONALD. *Gender & Racial Inequality at Work: The sources & consequences of job segregation.* Draws on evidence from the first general population survey that measures the gender and racial compositions of jobs, and increases understanding of the sources, consequences, and implications of segregation in the workplace.

WUNDER, JOHN R. *Retained by the People: A history of American Indians and the Bill of Rights.* Examines rights and legal status as perceived by Native Americans, addresses conduct and collective rights, and recounts the various forms of colonialism forced upon indigenous nations by European and American settlers to 1900, and then analyzes events from the 20th century.

Book Review

Richard Glen Boire.
MARIJUANA LAW.
Berkeley, Ca.: Ronin,
1992. 171 p. \$12.95
(ISBN 0-914171-62-3).

REVIEWED BY STEPHANIE TRIPP
LRC Reference Librarian

Richard Boire's *Marijuana Law* is a handbook of civil rights law for use when the cop is at the door, when the reader needs a crash course in self-defense against unfair police methods and onerous anti-marijuana laws. Boire's purpose is to inform marijuana users of their rights and how to protect and assert them. The result is a compact practical guide to marijuana law that unpretentiously treats the reader to a spirited and articulate dunking in constitutional law.

The viewpoint that the war on drugs is the war on individual liberties is a perspective that needs to be heard. And Boire is its champion. At the outset, Boire identifies the right of individuals to retain control over their bodies and their minds as the most fundamental of human freedoms. The government's banning of Cannabis is no different from the government's banning of a particular book.

Boire opens his book with a quote from Thomas Jefferson that illuminates the soul of the Bill of Rights, and the heart of librarianship.

If a nation expects to be ignorant and free, it expects what never was and never will be ... The people cannot be safe without information. Where the press is free, and every man able to read, all is safe.

Knowledge is the best weapon against

tyranny. Citizens must be informed of their rights in order to preserve them and remain free. This book is one small weapon still legal to carry.

Marijuana Law is a popular work not intended for in-depth research but it could legitimately be used as a survival guide not only for the potential recipient of the criminal justice system, but also for the dazed and confused law student and bar exam applicant being driven insane by the exceptions (is it still seven?) to the search warrant requirement. Boire is a defense attorney specializing in marijuana cases. Many of his examples, all entertaining and illustrative of a legal principle, are taken from actual court cases and resemble the issue-spotting scenarios familiar to law students.

The Table of Contents is a model of clarity in its organization and detail. The material is divided into ten chapters, as follows.

1. *Crimes & Punishment*
2. *Fourth-Amendment Basics*
3. *Encounters with Police*
4. *Search Warrants & Searches without a Warrant*
5. *Marijuana & Your Car*
6. *Marijuana & Your Home*
7. *Gardens*
8. *What If You're Arrested*
9. *Defense Attorneys*
10. *Drug Testing at Work*

The chapter subdivisions are wonderful expositions of situational applications of constitutional law. Some examples from Chapter 5 include:

When Can a Police Officer Stop Your Car?

Breaking Open Your Vehicle Trunk

Throwing Marijuana from a Moving Vehicle

Furtive Movements

An example of how Boire uses colorful facts to illustrate black letter law is found in Chapter Four's subpart, *How Mr. Puff Properly Asserted His Constitutional Rights*, a description of a citizen's encounter with the police.

Officer Friday stopped Mr. Puff's vehicle because his registration was expired, and asked Mr. Puff, "Would you please empty the contents of your pockets?"

Mr. Puff properly said, "Are you asking me to empty my pockets, or are you ordering me to empty my pockets?" When Friday said he was simply asking, Mr. Puff properly said, "No thanks, and I really must be going."

Analysis: Mr. Puff's question to Friday was entirely appropriate. In fact, Mr. Puff's response was an effective method of turning the table on the officer. If Friday had told Mr. Puff that he was ordering him to empty his pockets, Mr. Puff could have properly responded, "Get a search warrant. I do not consent to your search and would like to continue on my way." That way if the officer had proceeded to search Mr. Puff's pockets without a warrant, Mr. Puff's lawyer could argue that the search was illegal. If Mr. Puff had consented, his lawyer would have no argument.

In the words of Louise Bogan (sort of)--Come, drunks and drug-takers; come, law students unnerved! Here is a test, an excerpt from *Marijuana Law*, to tweak your interest and measure your knowledge of the reasonable doubt standard.

One day, Ms. Jackson was in her apartment when she heard a knock at her front door. When she opened the door she was greeted by several police officers with a search warrant. Ms. Jackson, who hap-

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MOTIONS.

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University of San Diego

Law Review Board Announces New Board, Members for 1994-1995

The San Diego Law Review's 1993-94 (Volume 31) Board issued invitations to join the Law Review to the top five percent of the first year class and announced the Volume 32 Board last week.

The Volume 32 Law Review Board Members

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ILS and ΦΔΦ to Co-Sponsor Guest Speaker on International Human Rights

BY ILS AND PDP STAFF

Noted international lawyer Bryan F. MacPherson will speak on the issue of "Furthering Human Rights and International Justice Through an International Criminal Court" at two sessions on campus on Monday, April 11, 1994. Mr. MacPherson has been on the forefront of the campaign for the establishment of an international criminal court. Such a court would try individuals who are accused of international crimes such as war crimes, genocide, terrorism and narcotics trafficking. An international criminal court would be a neutral tribunal which could defuse tensions between nations in cases

such as the downing of Pan Am Flight 103 over Lockerbie, Scotland.

Mr. MacPherson will address students during a free brown bag luncheon in Room 131 between 12:00 and 1:00 PM on April 11th. A dinner engagement has been scheduled for that evening between 6:00 and 8:00 p.m. in University Center room 103. Attending bar members will receive one unit of Continuing Legal Education credit. The price for ILS / PDP members is \$6.00. Students and members of the World Affairs Council pay \$15.00 and all others pay \$20.00. Reservations are necessary and must be made by April 5th by calling 260-4600 ext. 4969.

Law Revue: A Talent Show for All

BY PETER SALMON

On Friday April 15th, you must file a tax return. You should finish it early, though, because the law school talent show, Law Revue, takes place that evening. Starting at 7:00 p.m. in Salomon Lecture Hall (located in Maher Hall - you know, where you get your loan checks), your classmates will put their talents on display. Please note: the word talent is given a very broad meaning, so all differently-talented individuals are encouraged to participate.

Your faithful reporter will serve as emcee. Expected acts will feature singing, stand-up comedy, skits, and whatever else the performers wish to do - subject to the fire code and other state and federal statutes.

The talent show serves as a fundraiser for LRAP, the loan repayment assistance program. Accordingly, a \$5 donation will be requested. Audience members and performers will receive free beer, soda, chips, dip, salsa, and fruit, courtesy



of the SBA.

The talent show needs additional acts. If you wish to imitate a professor, spoof the law school, or even read poetry in obscure languages, please contact me, Peter Salmon, by dropping a note in my mailbox. Please include a telephone number, preferably yours. Remember - Friday April 15th, Salomon Lecture Hall at 7:00 p.m. Be there or elsewhere.

Unique Clinical Opportunities Await USD Law Students at CPIL

BY CIPL STAFF

As preregistration approaches, USD law students should be aware of two unique clinical opportunities: the Center for Public Interest Law (CPIL) and the Child Advocacy Clinic of the Children's Advocacy Institute (CAI).

Both CPIL and CAI are directed by Professor Bob Fellmeth a former "Nader's Raider" consumer advocate, a former Deputy District Attorney and Assistant U.S. Attorney, and who recently finished a five-year term as the State Bar Discipline Monitor under appointment by former Attorney General John Van de Kamp. Professor Julie D'Angelo supervises the Center for Public Interest Law, and Professor Sharon Kalemkarian supervises the Child Advocacy Clinic.

Center for Public Interest Law

CPIL is presently recruiting current first-year day and second/third-year evening students interested in administrative, regulatory, consumer, environmental, or public interest law for a limited number of internships available during the 1994-95 academic year. Selected students are given the opportunity, unique in the nation, to participate first-hand in the state's regulatory process and to have articles they write published in the *California Regulatory Law Reporter*, the only legal journal of its kind in the nation.

Created in 1980, CPIL is an academic center of research, teaching, learning, and advocacy in public interest and administrative law. The Center focuses its efforts on the study of an extremely powerful, yet often overlooked, level of government: state agencies which regulate business, trades, professions, and the environment. In addition to teaching the substantive law governing these agencies and direct clinic skills in public interest law, CPIL has an action component. Through its professional staff and assisted by student interns, CPIL drafts and sponsors legislation, litigates test cases, and represents the interests of the unorganized and underrepresented in state regulatory proceedings. The goal of CPIL is to make the regulatory functions of state government more efficient, visible, and accountable by serving as a public monitor. In November 1990, CPIL was endowed by Sol and Helen Price, through a \$1.8 million gift which created the Price Public Interest Law Chair.

Center interns take a yearlong, four-unit course entitled *California Administrative Law and Practice*. As part of the course, each student monitors two or three of California's fifty regulatory agencies, which include the State Bar, the Public Utilities Commission, the Coastal Commission, the Water Resources Control Board, the Department of Insurance, the Medical Board, the Department of Banking, and Cal-OSHA, among many others. Students attend meetings of their assigned agencies, monitor and analyze their activities, interview agency officials and licensees, and track rulemaking, legislation, and litigation affecting their agencies. Three times during the year, students submit articles summarizing agency activities for publication in the *Reporter* (with attribution to the student author).

Following the yearlong course, many CPIL interns pursue (for additional credit) an in-depth advocacy project involving one of the agencies. In the past, these projects have included comprehensive agency critiques; petitioning an agency to adopt regulations; drafting model legislation; filing suit to enforce the Administrative Procedure, Open Meetings, or Public Records Acts; or submitting *amicus curiae* briefs on public interest issues pending appeal. Student critiques of publishable quality often appear as

feature articles in the *Reporter*, and may also satisfy USD's written work requirement.

The Center, which has graduated over 500 students from its program, offers its interns a chance to personally observe and participate in state regulatory agency activity; an opportunity to have their work published several times during their second year in a unique legal journal; and a chance to work closely with experienced attorneys and lobbyists who have an active interest in the field of public interest law.

Child Advocacy Clinic

The University of San Diego School of Law has one of the few Child Advocacy Clinics in the nation. Working in conjunction with USD's Children's Advocacy Institute, a select group of students each semester train to represent children in dependency proceedings, or work as advocates on a variety of issues affecting the future of California's children.

Created in 1989, the Children's Advocacy Institute (CAI) is a statewide public interest organization dedicated to improving the status and well-being of children in California by representing their interests and their right to a healthy, nurturing childhood. CAI focuses on four target areas: prevention of child abuse and neglect, enhancement of child care and development, health and safety issues, and efforts to improve the government's delivery of children's services in California. CAI staff consists of an interdisciplinary team of legal, social science, and health professionals working from offices in San Diego, Los Angeles, and Sacramento.

Students interested in participating in the Child Advocacy Clinic must take *Child Rights and Remedies*, a course offered in the fall semester which surveys the broad array of child advocacy challenges: the constitutional rights of children, defending children accused of crimes, child abuse and dependency court proceedings, tort remedies and insurance law applicable to children, and child property rights and entitlements. Taking or completing *Child Rights and Remedies* qualifies students to participate in *Child Advocacy Clinic*, a clinical program spanning up to two semesters. Student clinicians have two options: (1) working with an assigned attorney and social worker from the San Diego Office of the Public Defender representing abused children in dependency court proceedings; or (2) policy work with CAI professional staff involved in state agency rulemaking, legislation, class action litigation, or similar advocacy.

The 1993-94 academic year was the first year of the Child Advocacy Clinic. During that year, eight students completed a semester at the Public Defender's Office representing abused and neglected children. Their cases concerned an adolescent who had been in foster care for three years after being abandoned by both parents and left with a substance-abusing older sister; an infant who had been severely physically abused by her parents; and a young child who had been allegedly molested by his father. Students are expected to participate in all aspects of the cases, including court appearances, trial preparation, interviews of witnesses including the child, and trying a case.

Policy students initiated a variety of interesting projects, each with a concrete result which advanced the welfare of children. One student collected declarations for a class action lawsuit brought by the National Health Law Program against the California Department of Health Services,

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Student Bar Association President's Report

BY BRAD FIELDS

Well, my term in office is almost finished. I have only a few weeks to go. However, we still have many events left.

Our St. Patrick's Day Shamrock Party has been postponed until April 9th. It will be as Ski Beach. Be there or be talked about.

We also have our annual Law Review Talent Show on April 15th. No need to sign up or rehearse. Just show up at Solomon Lecture Hall and be somewhat funny or talented. Look for more information soon on a bulletin board near you.

During the middle of April, in conjunction with Assistant Dean Carrie Wilson, we will be assisting in a number of First Year Class Registration Information Sessions. At these sessions, a number of upper-class students will talk about the classes that they took. There will be one session for each section. First-years, talk to your section reps for more information.

On May 18th, we will have our Graduation Party. It will be at the Sunset Ballroom at Princess Resorts. Tickets will probably be \$15 and go on sale next month. Look for more information soon.

SBA election will be held on April 12th & 13th. Make sure to vote for your representatives! In fact, if you are interested in becoming an SBA representative, you must register by Wednesday, March 30th. Information packets can be found on the SBA door in the Writs.

If you have any questions regarding these events or anything else, call us in our office at 260-4600 ext.4346.

Achtung Baby!

Don't say we didn't warn you! This is your last chance to write for Motions. Why should I, you ask? Let's just say you should consider the consequences if you don't and leave it at that.

**Final Writer's Meeting:
Thursday, April 7, 1994
at Noon in the Motions
Office, University Center
Room 113A**

**RSVP 260-4600 ext.
4343**

CPIL

(Continued From Page 3)

alleging that the state has failed to implement vital services for seriously ill children. Another student conducted a statewide survey of all 58 counties to ascertain what qualifications are required of attorneys who represent minors in dependency proceedings. Her findings will be issued as a report, and may lead to legislation to assure qualified counsel for children. Three students are conducting research for a "Children's Health and Safety Encyclopedia" to be published sometime next year. And several others worked on the recently-released *California Children's Budget 1994-95*, the first-ever in-depth examination of state spending on children's programs.

Both *Child Rights and Remedies* and *Child Advocacy Clinic* afford students the opportunity to engage in empirical research on topical questions and to write papers and reports for advocacy use or inclusion in child welfare scholarly publications. Students are also encouraged to spend some time during the semester in Sacramento, either working on their clinic project or participating in a workshop with CAI's advocacy staff in Sacramento.

If you are interested in learning more about CPIL or CAI and your role in their future, please attend either of two orientation sessions scheduled for *Tuesday, April 12 at 12:00 noon* or *Wednesday, April 13 at 4:00 p.m.* Both orientation sessions will be held in Fletcher 131.



Doug Bigelow and Kate Flaherty

Marijuana

(Continued From Page 2)

opened to be carrying her purse at the time, stepped aside to allow the officers to enter. Then, without warning, she darted into her bathroom and locked the bathroom door.

One of the officers ran after her, pounded on the bathroom door and ordered her to open it. After a short hesitation, Ms. Jackson opened the door and was quickly handcuffed.

The officers searched her home pursuant to the search warrant but were unable to find any marijuana. However, as they searched the bathroom, one officer noticed that the bathtub appeared to have fresh footprints on its rim directly below an open window high on the wall. Suspecting that Ms. Jackson stood on the tub and tossed her marijuana out the window, the officer ran downstairs to see what he could find. Just as he suspected, among the debris below Ms. Jackson's bathroom window, he found a baggie containing marijuana. In addition, the baggie was dry whereas all the other debris in the area was wet from some earlier rains.

At her trial, is there sufficient evidence to find Ms. Jackson guilty of possession of marijuana? For the answer, see *Marijuana Law*, pages 16-18.

As frosting on the cake, Boire has also included a detailed index as well as appendices of the *Bill of Rights* and *Federal Sentencing Guidelines* for handy reference.



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Moot Court

(Continued From Page 1)

Team members Ann-Margaret Bartish, Kirk Donnelly, Eric Prosser and Sean Schwarfeger advanced 4-0 through four preliminary rounds, beat the University of Denver law school in the semi-finals, and beat University of California at Davis law school in the final round.

All four USD team members competed in USD's International Law

50 teams from around the world will converge on Washington to participate in this prestigious competition. The final round, held on April 10, will be televised on CSPAN. Obviously the hard work and devotion really paid off! We wish the Jessup Team the best of luck in April!!

Geoff Morrison and I traveled to Denver, CO in mid-March to compete in the Western Regional American Bar Association competition. The ABA competition also typically involves Constitutional Law. This year's problem involved a woman who was convicted of a misdemeanor for striking her children in public and who was mandatorily placed on birth control. Twenty-eight teams from 19 law schools throughout the western United States gathered to participate. Although we did not advance in the oral rounds, our written brief received high marks.

The USD Lou Kerig Criminal Law competition was also recently held at the Downtown courthouse. First place honors went to Margaret McCahill, second place to Russell Gold, third place to Siobhan Cullen, and forth place to Cindy Freeland. Congratulations to all participants!!

For those second years who are interested in applying for membership on next year's Moot Court Board, applications for the 1994-95 Moot Court Board will be available within the next couple weeks. Interviews for Board positions will take place Sunday, April 17, followed by training for new Board members at the Winters Competition April 18 and 19. More details will follow in Sidebar. If you have any questions about the Moot Court Board, please feel free to drop by our office near the lawyering skills offices first floor of the law school.

The 1993-94 Moot Court Board would like to extend a big THANK YOU to all the students, faculty and attorneys who made this year's Moot Court program such a success! Good luck with finals!



Catherine Cottis Hard at Work

**Diary-Gate: Philanderers
Should Not Hold Positions of Trust.**
Page 5

OPINION

**Jury Nullification:
Potential for Confusion.**
Page 5

THE COURT SYSTEM

Jury Nullification: An Evil That Must Not Be Encouraged

BY CHRISTOPHER SCOTT TRUNZO

Most of you have probably not heard the term "Jury Nullification" although the concept it embodies is well known and obvious. It means that it is within the power of a jury, in the secrecy of the jury room, to disregard the law given to them by the judge when deciding upon the guilt or innocence of a person charged. While no jury could get away with telling the judge "Your honor, while application of the law given to us to the facts we have decided upon would lead beyond a reasonable doubt to the defendant's guilt, we nevertheless find her not guilty," if the jury was not so blatant about it, it could, and often does, get away with the same sort of behavior without ever articulating the specifics. This is a problem, or advantage depending on your point of view, inherent in the jury system. It would in any event be very difficult to combat, you cannot force the jurors to apply the law or even pay attention to it. Some however would be more than willing to encourage jurors to do so, to simply decide based on their "gut feelings" of guilt or innocence. As prospective lawyers, we should beware.

A group based in El Cajon has been in the news for the past several months promoting the concept of Jury Nullification on court premises. County judges, needless to say, have been less than amused -- they had the activists kicked off court premises. The issue is whether the states interest in a just and efficient court system outweighs the right of the activists to promote the jury nullification system. To decide this we must look at three things, what goals our system laws and courts are set up to promote, what detrimental effects would jury nullification have on that system and the goals, and what beneficial effects would accrue from jury nullification.

Our system of law both reflects and guides our behavior as a society. Much of our law, criminal law in particular has been decided through the legislative process. Such law can be said to be truly reflective of the views of a majority of the population -- despite all of the legislative chicanery that goes on, the voice of the people speaks more clearly through the legislative branch of government than through any other medium. The law also has a normative aspect, it sets standards to which society expects its members to adhere to, standards of behavior deemed reasonable by the majority. Majoritarian tyranny, i.e. the creation of laws by the majority that benefit them at the expense of some minority, is restricted by the application of both the Federal and State constitutions. The value of the law therefore is twofold: it gives the individual a corpus of standards of behavior that will and will not be tolerated and it gives society a scale by which to judge the behavior of individuals who are accused of acting beyond the scope of reasonable behavior.

Jury Nullification directly detracts from each of the two values. Where a jury simply makes an ad hoc determina-

SENATOR BOB

Packin' Wood: The Reminiscings of an Incurable Romantic Revealed

By Kevin Kemper

Bowing to the inevitable, as well as to the Supreme Court, Senator Bob Packwood said he would turn over his diaries to the Senate Select Committee on Ethics. As we all know, Senator Packwood has been under a cloud since last year when the first of more than two dozen women accused him of grabbing them, groping at them and kissing them against their respective wills.

So what's with all the racket about Senator Bob's diaries, anyway? Are you telling me the U.S. Senate doesn't have anything better to do with its time than spend day after day arguing about the sextracurricular activities of some old goat who can't keep his hands to himself?

The Senate Ethics Committee wants the diaries in hopes they will prove or disprove allegations made by roughly half the adult female population that Packwood has taken the old political technique of "pressing the flesh" to entirely new levels.

Well, excuse me, but can we cut to the chase here? There are few topics that interest me less than the Intimate Love Secrets of Bob Packwood. Now, if we were talking about Tonya Harding's diary, that might be a different story. But Packwood's? Please. I'd rather re-take Wills and Trusts.

Besides, he already confessed. At least sort of, as much as any politician who gets snagged like this can be expected to. Without going into specifics, he said he had a drinking problem and that the Devil made him do some things he wasn't proud of and so on and so forth. It's not the best excuse in the world, nor is it particularly original, but it's his, and he's entitled to use it, right?

So, as a public service, and in an effort to get the Senate on to more interesting topics (for instance, WhitewaterGate), I worked my extensive network of Washington sources and managed to obtain a few of the highlights from Packwood's diary.

How did I do this, you ask? Don't ask.

At any rate, here's a sample of the material the Senate has been promised. I offer it in the sincere hope that it helps resolve this unfortunate situation:

Dear Diary: Afternoon meeting with Mushroom Growers of North America. Became completely undone by a winsome, mysterious creature from their Interstate Distribution division. Followed her back to an office and, bending at the waist, rubbed forehead against her flank, crying, "In me be vigor, power, beauty, wealth and merit!" She, nonplussed, claimed migraine, sprinted to ladies' room, gagging. That old ploy.

Dear Diary: Routine day. Sponsored pro-choice legislation. Voted to save loopholes for timber industry. Attended Finance Committee hearing. Copped a feel from

that blonde page with the fishnet stockings in the mail room. She seemed a little horrified, but I think she digs me.

Dear Diary: Interviewed today by the Washington Post. Had a couple glasses of wine and kissed the reporter good-bye. Just a little peck on the lips. She acted shocked. So much talk about sexual harassment these days, you just want them to know they're appreciated. Anyway, I made profound apologies. (neurological seizures, not unlike epilepsy. Drugs to control it, etc.)

Dear Diary: Watched tapes from the Clarence Thomas confirmation hearings. Pubic hair on a Coke can? God, that man is smooth.



SIGNÉ
PHILADELPHIA DAILY NEWS
Philadelphia
USA

Dear Diary: The newspaper says I "made unwanted sexual advances to more than two dozen female aides, associates and lobbyists." Who said they were unwanted? I wanted them. What's this country coming to when a United States Senator can't rub up against a young woman in the elevator and stick his tongue down her throat? What country is this? The Soviet Union?

Dear Diary: Did a Q & A this morning at a fund-raiser. Someone asked me, "Senator Packwood, what's the secret of selecting a good staff?" So I told that great story about how I needed a legislative assistant: I interviewed three women. One from Harvard. One from Yale. One from UCLA. Each one was smart as a whip. I said, "This is a very difficult choice, but difficult choices are what leadership is all about." Then I hired the one with the biggest hooters. Ha-ha-ha. God, that's a funny joke.

Dear Diary: I think I'm making progress with the big redhead with the lilac perfume who lobbies for tobacco. I spotted her in the hall, and I asked her, "What's your sign?" I told her I was a Taurus. She said, "I'm a Lexus."

Dear Diary: Told Ethics Committee I kept a diary.

Dear Diary: My God, they want to subpoena my diary. What do I do now?

Dear Diary: Hmmm: "I fondly remember the time when John Glenn was dead drunk on the balcony of the" ... no, "I fondly remember the time when Pat Moynihan was down on all fours, buck naked, pre-

tending" ... no, "I fondly recall the time when Strom Thurmond first suggested we run Patsy Schroeder through the Tailhook gantlet" ... no, I've got it, "Who would have ever believed that Al Gore would dress up as a candy striper, and" ... yeah, let's see them subpoena this.

Dear Diary: Today I revealed that my diary was 8,200 pages long, single-spaced! And I've been working on it every day for 25 years. Well, one of my staffers calculated that's enough for 30 full-size books. James Michener hasn't written that many words. That's longer than the Great Wall of China. Jeez, it's even longer than Clinton's health

care bill. Uh-oh, now I have to wade through it all and get rid of any reference to cheating on my taxes, stuffing bodies in the trunk of my car and removing the tag on my mattress. That's all I need, some two-bit Democratic senator screaming, "Criminal misconduct!"

Dear Diary: Scored big today! Told the Senate I named names in my diary. You should've seen them scramble. Only Teddy Kennedy took it in stride; he got me in the cloakroom and said, "I bet

Bill Clinton 50 bucks that my name is in there more than his."

Dear Diary: Someone asked me, given the lesson of Watergate, why I kept a diary. Why I put it all in writing. I said my diary included "the hopes, the dreams, the despairs of all of us."

Dear Diary: Nixon sent me a telegram. Said I was a putz.

Dear Diary: I assured the Senate this isn't blackmail. "The secrets in that diary are safe with me." They're afraid of leaks. I said: "Come on. Who in this chamber would leak anything?"

Dear Diary: Maybe I should black out all the references to Barbara Boxer coming over in that Little Red Riding Hood outfit.

Dear Diary: I'm standing firm on this subpoena thing. In fact, I just ordered a staffer from the Ethics Committee out of my office. You know the one I mean - the one with the bodacious.... She said she intended to fight me tooth and nail for my diaries. Hah, the joke's on her. She obviously doesn't realize that I like that in a woman.

Dear Diary: Why is everybody so upset with me? Doesn't everyone take extensive notes on his friends' sex lives?

Dear Diary: I read Colin Powell got millions for his book. What's the best stuff he's got? Can he put Bill Clinton in the White House jacuzzi wearing only swim fins and a snorkel with the first three runners-up in the Miss Nude Little Rock pageant? I can!

Dear Diary: Hired a literary agent.

Nullification

(Continued from Page 5)

tion of guilt or innocence based on intuition, chicken entrails, voodoo or what have you, it gives no clue to others whether their behavior would make them liable; no one would know whether if they committed the same acts that got Defendant X 30 years in the state pen, they would get the same treatment, harsher, lighter or even no punishment at all. Precedent would be meaningless as no one would be bound by it -- if written law need not be applied, the concept of a decision based on precedent would be an oxymoron. There would be absolutely no predictability in the outcome of the law.

Jury Nullification would also give prosecutors much less guidance in exactly what to charge people with and when. Certain prosecutors, especially those with an eye towards further political office would likely set up grandstand cases based on spectacular, if legally flimsy, evidence knowing that they can depend on pure emotion and "insight" to stampede the jury into a conviction. Other prosecutions may be deterred by the simple fact that if the prosecutors have

no clue as to whether the jury will convict or not, they may not be willing to go to the expense of prosecuting any but the most clear cut cases -- undoubtedly many who would under a system of consistent law be found guilty would never be charged.

Advocates of jury nullification presume that a panel of twelve people will always do justice, that those impaneled have some special pipeline flowing to them from the vast pool of natural law wherein all truth lies. What is to stop them from being petty, mean spirited, bigoted, racist, dog kicking, sons of motherless goats? Is it not just as likely that they will do injustice as justice? What gives this vanishingly small minority the right to supersede the wishes of a constitutional democracy of which they are only a part? Is it their special proximity to the case at hand? If so, then we run the risk of creating a beauty contest in every courtroom. The more sympathetic the defendant, the less likely a conviction would become. Our prisons would be even more free of blonde, blue eyed, Nordic types than they are now. Conversely, persons who under application of the law to the facts would be innocent might find themselves serving long sen-

tences because they had the misfortune of innocently harming widows and orphans.

It is only through the law that our constitutional rights can be enforced. Would desegregation have happened in the south in the 1950's and 60's if the juries located therein could flaunt the law handed down to them by the supreme court? Could someone accused of an infamous crime such as child molestation ever hope to be found not guilty when the prosecutor could simply point at a young child with tears in its eyes and make her case? In both cases, no.

The biggest problem with the theory of jury nullification is simply this, they advocate informing jurors of their ability to base their decision on "insight" or a "gut feeling," in other words to base their decisions on inarticulated and possibly inarticulable facts. Try to explain the basis of a decision based on insight. Try to point out what is just and what is not. For every twelve people you poll, you'll get twelve different answers. If you refer to standards of "ethics," whose ethics are you talking about? The ethics of the slave trader or the saint, the ethics of a Nietzsche or Mother Theresa? In any case, court decisions would range

the entire spectrum from ruthless logic to illogic, from dispassion to passion, from caring to carelessness. Remember, we are not talking about the power of the jury to determine the facts, that is inherent, facts differ from case to case. What we are talking about here is the ability of the jury to decide that the law will apply differently for one person than it does for another -- to forget entirely the 14th Amendments guarantee of equal protection and due process for all.

There is no way to know the absolute truth, if indeed there even is such a thing. We must therefore at least have a consistent method of determining what we call, for lack of a better term, the "truth." The jury has the power and the right to determine the facts, but once it has done so, it must apply those facts to a set of laws that applies equally to all people or else they pass without right into the uncharted realm of mob rule and injustice. Jurors can get this, they regularly do, and there is no way to stop them without violating the integrity of the jury system. But they should not be encouraged to do so. Justice is blind, it must be so lest it become injustice.

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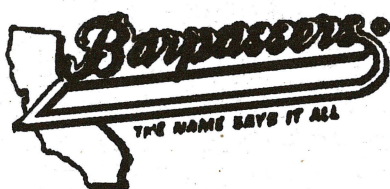
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Letter to the Editor

Reader Decries "Fowl" Usage in Article

Dear Editors,

How dare you! Last night, while perusing the latest issue of your otherwise outstanding newspaper, I happened to chance upon your article detailing the visit of State Water Board Vice-Chairman Marc Del Piero to our school. While the article itself was well written and thought provoking, in several places it referred to our winged brothers here on Space-ship Earth as "fowl." This we will not stand for.

This is yet another example of the excruciating insensitivity shown by newspapers to minority groups. Birds have a long and noble history. Recent scientific evidence has shown that they are the true descendants of the mighty dinosaurs, rulers of the earth for far longer than mere mammals, let alone primates, have existed. For millions of years, they have served a vital and valuable role in the ecosystem. Try to imagine a world without them: we would be overrun by all manner of insects, spiders, worms and other nasty, squiggly, slimy but nevertheless quite tasty little creatures. You would not like that very much would you? No more than our avian friends like to hear the term "fowl" applied to them.

"Fowl" is a pejorative term cooked up by the mammalian usurpers who for the last million years have kept avians in a state of servitude and penury. You say the early bird gets the worm? Forget it, by the time the bird gets there, some horrible primate will have dug it up to go fishing, a very fowl deed indeed. Every time you use the word "fowl" when you mean "Bird" you perpetuate the evil perpetrated on these innocent creatures who, just like you and I, are trying to do their best to get by in this crazy thing called life. Instead of "fowl," next time try bird, or better still "Avian-American." Show some respect, if you stop shitting on them, maybe they'll stop shitting on you.

PHIL ORNITHONOSIS

California: Plan now or weep later.

Page 7

CENTERFOLD

Out Of State Bar Takers:
Potential for Confusion Alleviated.
Page 9

THE CALIFORNIA BAR

Handy Guide For Potential California Bar Takers

BY GEOFF MORRISON

Congratulations to all graduating third and fourth year students! You have qualified for the opportunity to take the bar exam for the state in which you intend to practice. For those of you who plan to remain in California, here are some dates and various other miscellani you might find useful:

The application for the Bar is due on April 1. The cost is \$325. Thereafter, it is still possible to apply, however a late penalty will be assessed. Thereafter, the State Bar's uniquely draconian graduated late fee payment plan takes effect. See the Records Office for more details.

For those of you who have not completed the California moral character application and still intend on practicing law in the next calendar year, it's time to get moving. The application is surprisingly easy to complete, and costs only \$265. Also, remember that you're only required to report misdemeanor and felony convictions. Traffic tickets, infractions, and any arrests not resulting in a guilty verdict, a plea of guilty, nor a plea of nolo contendere are between you and your priest.

Additionally, for those of you who have not yet registered as a first year law student with the California State Bar, now is the time to do so! I recently completed this procedure, and I'm pleased to announce that it costs only \$85!

The California Bar Exam is on July 26, 27, and 28. Mark those days off on your calendar so that you don't forget. You might want to mark off a few study days as well. Keep in mind that the exam contains three types of test questions: essays, the multistate (multiple choice), and performance exams. This year, *Motions* is proud to enthusiastically endorse any commercial bar review course as an alternative to none.

For your convenience, *Motions* has created the following chart so that you can track your financial progress towards becoming a full-fledged practicing attorney:

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\$55.00
- 7) First Year Registration Late Fee:
\$30.00
- 8) Total:
\$ ____.

Instructions:

Ignore line 1. Add lines 2, 3, 4, 5, and 6. Add line 7 if applicable. If line 3 does not apply to you, repeat step 4 in December.

SUPREME COURT REPORT

My Summer With Antonin: Justice Scalia's Spin on the Bill of Rights and The Separation of Powers

Summer Program Offers Unique Insight

BY KEN ZARETZKE

If you were Justice Antonin Scalia, and you were lecturing on one of your favorite subjects, the separation of powers, what would you say? Roughly the following, which is a distilled account of what Justice Scalia (himself) did say last July in Cambridge, England, with yours truly sitting in the audience.

Justice Scalia began with the observation that the rights of Englishmen, from which our own system of government evolved, were never abstract "highfalutin'" rights. They were, and are, concrete rights embedded in a system of government. By way of illustration, Justice Scalia told us to consider the Bill of Rights. To practicing lawyers, the Bill of rights looks like the "centerpiece" of our system of government. But the Bill of Rights, Scalia said, isn't really the centerpiece. It's just an abstract document. It gives expression to sentiments that have no real force in themselves. What gives the Bill of Rights force is our structure of government, by which Scalia meant mainly the separation of powers.

Compare, Scalia said, the Bill of Rights of the former U.S.S.R with our own Bill of Rights. He called the former Soviet Bill of Rights "magnificent, much better than our own Bill of Rights -- wonderful stuff." But it wasn't worth the paper it was printed on. The Soviet Union, with its centralized socialist system of government, had no room for such niceties as enforceable rights.

When he was a law professor, Justice Scalia said, he used to call the structure of government, as opposed to individual rights, "real constitutional law." What gives a Bill of Rights life is the structure of government. Individual rights are parasitic upon the structure of government. Whatever force they have depends on the government being wisely set up.

The first case Justice Scalia discussed was *Humphrey's Executor v. United States*, a 1935 case that involved the President's appointment and removal powers. That case involved FDR's attempt to dismiss a conservative commissioner of the Federal Trade Commission (FTC) who had been appointed by Herbert Hoover. (The commissioner of the FTC had power over many New Deal programs.) The commissioner, one Humphrey, refused to resign. FDR canned him. In a decision that Scalia said was wrongly decided, the Supreme Court unanimously held that Humphrey had been improperly removed from office. The basis of the Court's opinion was that the FTC is a "quasi judicial and quasi legislative" body, and therefore the commissioner could not be dismissed by the President because he was not an officer, or at least not purely an officer, of the executive branch.

What bothers Justice Scalia about this is that an independent administrative agency like the FTC, which is formally part of the executive branch, may not be answerable to the President because it functions in a "quasi-judicial or quasi-legislative" way. In Scalia's view, all delegation of powers is unconstitutional; Congress cannot delegate power to the FTC to perform "quasi-legislative" tasks. Nor can it require that an official of the FTC be removed by the President only "for cause" when the FTC is officially part of the executive branch. We do not need, as Scalia said elsewhere in one of his famous dissents, a "junior-varsity Congress." If we really need a fourth -- administrative -- branch, then we should create



one. I don't recall that Justice Scalia said anything about this, but I doubt he would see any problem with it.

In practice, the problem with the delegation of powers is that it leads to lack of accountability. If FDR could not dismiss at will the conservative Humphrey in order to more expeditiously advance his New Deal programs, then the FTC could follow a policy contrary to the President. Accountability goes out the window. In Justice Scalia's view, the three branches of government should therefore be kept strictly separate. As he said, when power is "given to the courts, as soon as it's given, bang it become a judicial power." Or when power is given to the executive, bang it becomes an executive power.

Humphrey's Executor, Scalia noted, was decided less than a week after it was heard -- "and it shows" -- whereas the case it modified, *Myers v. United States*, authored by Chief Justice Taft, took 1-1/2 years of deliberation, during which Taft continually researched and worked on his analysis of the case. *Humphrey's Executor* did not even give a reason for its conclusion; it only said the matter "cannot be doubted." Scalia regards *Myers* as a model of judicial excellence, especially on the separation of powers, and *Humphrey's* as a misguided frivolity.

Justice Scalia also discussed *Bowsher v. Synar*. This 1986 case concerned the Gramm-Rudman-Hollings deficit reduction

statute. Scalia said the Constitution was not taken seriously when Congress passed this statute, which gave the comptroller general power to make recommendations to the President, who then *must* order spending reductions. The statute also made the comptroller general removable only for cause, not at will. In effect, the President had to take orders from an unelected, second-tier official whom he could not fire as he wished. Scalia regarded it as an outrage. He was on the Court of Appeals at the time, where he wrote the opinion holding the Act unconstitutional. The Supreme Court affirmed.

Justice Scalia used the *Bowsher* case mainly as an example of congressional hubris. He gave another and more extreme example of such hubristic overreaching. At one point Congress wanted to enact congressional Committee vetoes, whereby legislation proposed by the President would not be effective until approved by a Committee. Scalia said this shows "how wonderfully imaginative Congress can be in coming up with gimmicks to augment legislative power and reduce executive power." We must learn to cultivate, he said, "the smell of unconstitutionality." And this idea stunk.

Next up was *Morrison v. Olson*, a controversial case in which Scalia registered what he called "my most heartfelt dissent." Calling *Morrison* a "very bad decision," he said there have been decisions during his tenure on the Court that he thought more misguided but none about which he felt more strongly.

Morrison in effect gave the Independent Counsel more power than the Attorney General who appointed him, because under the statute the President cannot turn off the investigation and dismiss the Independent Counsel if he thinks the national interest requires it. (The current Whitewater scandal, by the way, is probably regarded by Justice Scalia as merely a matter of chickens coming home to roost. He probably is not as delighted as your average Republican that the Clinton's are caught in the clutches of a monster of their party's creation.) The President, in Scalia's view, should be able to fire inferior officers at will -- and "inferior officer," in constitutional terms, means inferior to the person who appointed him or her, such as the Independent Counsel. The Supreme Court in *Morrison* admits this is not a "quasi-case" -- a purely executive officer is in question. And yet the Court holds the president cannot dismiss the Independent Counsel at will.

To Scalia, this violates the separation of powers and makes Congress, which passed the Independent Counsel law, a "900 pound gorilla," as he put it. Natural powers adhere to each branch. The power to prosecute, or not to prosecute, is a presidential prerogative. That

Please Turn To Page 8, Column 1

WEEKEND WITH THE JUDGE II

Picking The Judge's Mind: If You Don't Know The Law, Know The Judge - Part 2

BY BELINDA ETEZAD RACHMAN

This is the second part of an interview done by six first year students from C section with two judges over one weekend. Melissa Kirschner, Rob Moore, Sophia Ray, Dave Stern, Randy French and myself spent the weekend outlining and schmoozing with my mom, Judge Barbara Johnson and an old family friend and colleague Judge Robert Roberson, both of the Los Angeles Superior Appellate Court.

When last we met, Rob Moore had just asked Judge Roberson if we had to know someone in order to get as much as a volunteer job after 1st year and the Judge had basically said we aren't good for much and were more trouble than we were worth.

Judge Barbara Jean Johnson (Mom): If you're creative you might contact the public defender's office or the D.A.'s office and ask if any of the attorneys in their office could use a volunteer. Because they have very heavy case loads and may need help calling witnesses for them and writing down information from them. I've asked my research attorney because I

get inquiries from time to time from 1st year law students about volunteering without compensation whether or not she would be interested in having one because I don't want to spend my time, I don't have the time really to help or be part of the instruction for a student. If it were helpful to my research attorney it would be a good opportunity for a law student. They wouldn't be 100% helpful to her but she is very capable and might enjoy it and might enjoy it. It would be a very good learning experience for the student, but she would never trust them enough to use their material, she would have to go through the same steps and that sort of thing. But if you are creative there might be something you could do at the public defender or D.A.'s office. It might be an interesting experience for you to see the public sector.

Robbie: What you might find as a 1st year if you go to one of these offices and they agree to use you they will probably use you in filing. You might put together discovery packages, and things of that nature, but not doing memos involving real important issues that they have to deal with.

Belinda: Randy and I wanted to ask you

some presentation questions.

Randy: What do you think about long hair. (his is blond and 1 foot long down his back)

Robbie: For me personally? (a little joke, black men look so fine with long blond hair)

Belinda: No. Is that going to get in his way?

Robbie: You mean coming into court as a lawyer you mean? No I think as long as the person is properly dressed.

Belinda: Ok that's my question. What is properly dressed? Do you have to wear goon clothes and wear a suit all the time



Rob Moore Taking The Judge's Advice and Extending His Social Contacts in the Hopes of Finding a Job

and look like your grandfather?

Robbie: Well I would say for me, my preference...

Mom: Here is a man who likes to wear clothes, Brooks Brothers suits. (Robbie is a very dapper guy)

Robbie: I think a lawyer has a certain responsibility to make a good image for the public and to show the court respect. I wouldn't want to see a person coming into court in Earth Shoes, (a '70's reference for the kids in the house) Levis and a tee-shirt. But I've had people come in Levis, white shirt a tie and a sports coat. It's not something I would personally wear as a lawyer because I think if you are going to try cases before juries or judges whether you think it or not they are watching you as well as your presentation. If you come across to them as some slob, they may very well reflect that in their verdict and that is just my impression. As a lawyer when I went to court I wouldn't think of coming to court without a suit and tie. As far as hair style I don't think that makes any difference as long as it's groomed. But juries are watching you. Just as an aside, I did a lot of

criminal work. We had a large general practice and somehow I always got thrown off into the criminal area. Every time we got a big case, a big homicide case or something, I'd be the one ending up trying it. I had a client who was charged with murder. The person had been shot 5 or 6 times, 4 of them in the back. When I first saw my client he was in custody in the court room and he was going to be arraigned. He had a heavy beard, his hair was all ungroomed, sticking out, and he looked like the werewolf. I told him, "The next time you come to court, I'd like to see you in a suit. I'll see that your mother gets a suit here for

you and I'd like to see you with your hair groomed and with that beard cut off." He said, "You mean to tell me that people judge you based on the way that you look?" And I said, "I think they do." He said, "Well if they judge me like that then that's their business." I said, "Let me tell you Mr. so and so, I don't like to lose cases but I want you to understand that what ever happens to you, I'll be going back to my air conditioned office and my air conditioned Rolls Royce. So you can dress the way you want, but you know what I suggest. The next time we came to court he had been

bailed out. He wasn't with me. I walked in and the judge called the case and I said, "I don't see my client." And the judge said, "That's him standing next to you." Here's this guy who was well groomed, hair cut, I didn't even recognize him. The jury acquitted him and after the trial a few of them said, "We could not conceive of such a well groomed person being capable of committing the crime that this person committed. So it's important. You can do what you want as far as dress, but I think to be properly dressed and properly groomed not only shows respect for yourself but for the court and for your client and I think you come across much better.

Mom: I think you should think of it as when you represent a client you are not representing all of your free swinging ideas. You are the mouth piece for that person and the credibility that you bear has to do with not drawing attention to your self because of all the flamboyant things that you do like old Gladys Root wearing great big hats and things like that.

Belinda: But she made a name for herself. Robbie: She was pretty flamboyant.

Mom: Those were the old days when there were no women and a woman didn't get clients, and the clients she was trying to get were the pimps and the prostitutes and that was her client base. Things that were cheap and gaudy and flamboyant probably would make her more well known with that group as she would go down to the jails and be wearing all this stuff. But you want...

Belinda: Did she win her cases.

Robbie: Yes she was a good lawyer, she was an excellent trial lawyer.

Mom: She was smart. But you want your opponent to know that you are all business, no nonsense. You want the court to realize that you are all business, no nonsense. You want a jury to know you are all business, no nonsense and when you take on your client's case forget about the things you want to do in your free and swinging private life. I think long hair does denote someone who is free and swinging and isn't as attuned to business. Whether it is true or not it denotes that and I think that if you were arguing to a jury, you would want to recognize what is a cross section jury in this community like. I think your bearing and presentation should consider that and the judge is the same. There are some communities where the judges are very liberal and would probably be more lenient in how they viewed you and there would be other more conservative courts that would think otherwise.

Robbie: Look at some of the leading trial lawyers today, the ones who get the big verdicts.

Belinda: That cowboy guy with the hat who represented Imelda Marcos.

Mom: No not in L.A. That's an aberration.

Robbie: No aspersions on him, I don't know anything about him but most of the judges I know would think he's a joke.

Mom: He practices in the southwest or midwest.

Robbie: I know nothing about him, but if someone came into the court room in cowboy boots a Stetson hat and so forth he would be the talk of the judge's lounge.

Not in any favorable terms probably. But you take people like Brown Green, Johnny Cochran, people on that order. When you see them, they are very well dressed, very well groomed and not a lot of flashiness. I know when I tried cases, I like a jewellery, but I would never go into a jury trial with a big diamond on or a very expensive watch and things of that nature

Mom: Or big chains. (jokingly)

Robbie: You certainly don't want to do that. But sure you create an impression. I went to a doctor's office a while ago and he came out in chains and all sorts of stuff and I told my wife, "I'm getting out of here. I don't want to stay here." It's an image as your mom said, and it's something people look at.

The last installment will include more inside tips from the judges and Judge Roberson's feelings about reforms having to do with cutting back a lawyer's voir dire.

Scalia

(Continued From Page 7)

doesn't mean the President can get away with anything. The powers of each branch are checked by one another, and the executive and legislative branches are checked by accountability to the public.

Still, won't Scalia's approach encourage political corruption in the executive branch? No, he said. The President will take the heat if he fires an Independent Counsel in order to cover up his misdeeds in office. He will pay political consequences, maybe not tomorrow but whenever the next election is held. Presidents can't be as tricky or as slick as they please even under Scalia's system of taking

the separation of powers seriously.

The Independent Counsel should not exist within the executive branch in the first place. Scalia argues that the President should not have to authorize investigation into activities that he may or may not have engaged in. Congress, acting through its own officials, can do that if it wishes to take the political risk. Of course, Congress won't initially have the same access to information that an investigator within the executive branch would have. But this is only to say that the President, like Joe Lunchbucket, is innocent until proven guilty.

[Good grief, this has taken hours to write so far. Therefore I'm going to skip Scalia's last two lectures.] Scalia summed

up his last lecture by reminding us, or better, shocking us with the revelation, that the Constitution does not contain all that is "good and true and beautiful" -- contrary, he said, to what "law professors and law students and ultimately the public believe." He said we should take a minimalist view of the Constitution. He criticized substantive due process as meaningless ("substantive process?"). And he reminded us that there is such a thing as the 10th Amendment in the Constitution.

Topping it off, Scalia also lamented the fact that the Supreme Court's decision in *Roe v. Wade* has meant that "abortion is not publicly debatable anymore." He didn't say what he meant by this but I think he was

basically making the same kind of argument that Harvard Law Professor Mary Ann Glendon has made to the effect that, in *Roe v. Wade*, the Supreme Court prematurely leaped into the fray of a deeply contentious issue and in doing so prevented any kind of social consensus from forming on the issue. Professor Glendon contrasts the divisive and stalemated American debate about abortion with the situation in Europe, where there is a consensus on abortion precisely because the European high courts, unlike the U.S. Supreme Court, refrained from seeing their role as essentially that of a social bull terrier. That is probably what Justice Scalia meant by his throwaway reference to abortion not being publicly debatable anymore.

A Bar Review Who's Who For You

PMBR

PMBR is the only major bar review course which focuses exclusively on the multistate (MBE) portion of the bar exam. This is a change from prior years when PMBR also conducted essay workshops in states such as California and New York. Because PMBR focuses exclusively on the multistate, the course is useful for all students planning to sit for a bar exam where the multistate portion of the exam is used.

PMBR runs two types of courses. The Six Day, or "Early Bird" course, and the Three Day. The Six Day runs during the week in between the end of final exams and graduation, so as not to conflict with the starting date of both Barpassers and Bar Bri. The Six Day retails at \$495.

The Three Day course coincides with the conclusion of both Barpassers and Bar Bri, and is designed as an intensive multistate workshop. The Three Day retails for \$375. Substantial discounts are available on both the Six Day and Three Day courses, especially if both are purchased. For more information, including the locations of the San Diego courses, call 1-800-523-0777.

Barpassers

Barpassers is the second largest bar review course in the state. Barpassers' faculty is lead by full-time California Bar Exam experts, each of whom has taken and passed the California Bar Exam. The course is a comprehensive review which includes the teaching of all multi-state subjects.

Barpassers believes in the benefits of workshops, and therefore offers extensive workshops which cover a multitude of subjects. Barpassers also believes in the flow chart method, and has created a series of charts designed to facilitate exam preparation.

Barpassers course begins May 23 and ends July 13, however the last week of the review consists of a full simulation of the California Bar. Barpassers also offers the APTS multistate review which is included in the base price. Barpassers offers their course at two different times, a day course and an evening course. The courses will be held at the University of San Diego.

The retail cost of the course is \$1845 with various discounts for such things as early enrollment and group sign-ups. For more information call 1-800-723-7277

Lawlor

Lawlor is one of the smaller bar review courses in the state, which targets repeat exam takers, as well as those who favor a more personal instruction style. The course is run by Mr. Lawlor himself, who was a grader for one of the larger courses for more than fifteen years.

Lawlor classes never contain more than nine pupils, and each course is divided into three stages. During the first stage, which runs from May 1 to June 20, students

spend 14-16 hours per weekend in class focusing on a comprehensive review of all test types and subjects. During the second stage, essay and performance exam writing techniques are focused. This stage runs from June 20 to July 1. The third stage is a practice oriented review of the first two stages, and runs from July 1 until the exam.

Lawlor classes are held in Del Mar. Depending on the number of enrolled students, afternoon and evening classes are available. The cost of the course is \$1550. Mr. Lawlor can be reached at (619) 792-0632.

Bar Bri

Bar Bri is the largest bar review course in the nation, and its share of the California market is representative of that distinction. Bar Bri offers a comprehensive review of all subjects covered on the California bar exam. This review includes, at no additional cost, a Gilbert six day multi state workshop, as well as a three day simulated bar workshop.

The Bar Bri California review begins May 23, and ends July 14. The San Diego course will be held at the Marina Village Conference Center, adjacent to Mission Bay. Because Bar Bri offers courses designed for the bar exams of most states, if you plan to take the bar outside of California, you should contact their offices for applicable dates and prices.

Bar Bri prides itself on the fact that its review courses are taught by distinguished ABA law school professors lecturing in their areas of expertise.

The tuition price is \$1650. Bar Bri offers a variety of discounts and packages to suit your needs. For more information call 1-800-995-5227.

Flemings

Flemings runs two separate courses; both a short term and a long term review. The short term begins May 25, and runs until July 19. The long term begins March 5, and runs through July 17. Flemings covers all three sections of the bar exam through the use of live substantive review lectures which cover all 14 subjects on the bar exam.

Flemings also uses essay, multistate, and performance workshops which are designed to enhance the performance of students on those sections. Flemings' classes meet on Saturday, 9 am to 5 pm, Sunday, 9 am to 5:30 pm, and Monday and Tuesday, from 6:30 to 10:30 pm.

Flemings prides itself on the use of distinguished faculty from Harvard, Yale, and Cal Western. The price for the long term review is \$1550, while the price for the short term review is \$1395. There are discounts available. All live courses will be held at Pacific Christian College, in Fullerton, California. Audio tapes are available for those unable to attend. For more information call 1-800-LAW-EXAM.

Advice for Out of State Bar Takers

BY MARK NYMAN

Yes, there are other Bar Exams besides the California Bar. I am writing this article to help all the students who are taking the Bar in another state. If you are planning to take another Bar I have some good news and some bad news. First the good news, you don't have to fill out the California moral character application, that not only wants your complete life story but also \$265. OK, now the bad news, no one's going to hold your hand to make sure you receive the necessary application and to remind you about deadlines. However, hopefully I can offer some help or advice, or even helpful advice. There are a few steps you must take in order to have a successful bar taking experience.

First, decide what State Bar you are taking.

Second, decided where you are going to be living this summer.

Third, find out which bar review courses are offered covering your particular state bar. In picking a bar course find out when the course begins and where it will be offered. For example, I am planning on taking both the New York and the Con-

necticut bar exams. Yes, it can be done at the same time. I am enrolled in Bar/Bri bar review in Hartford, CT for the New York bar. A few of the bar review courses do offer classes in different states for particular bar exams. For example Bar/Bri will hold a New York bar review course in Los Angeles this summer. The starting date of the course is also important to inquire about. The review course that I am taking starts on May 25, just 4 days after graduation, not much time to pack up the wife, house and dog, and drive a U-haul 3,000 miles. Well that's my problem, I am supposed to be helping you.

Fourth, call the State Bar Examiners and find out how to get an application and ask about any deadlines. Some states may require additional paperwork, so ask what else besides an application is needed. A list of every State Bar's telephone number is published here for you convenience.

Fifth, complete the application, sign up for a bar review course and finalize any moving plans.

Sixth, take it easy and enjoy your last month of school.

Good Luck

State Bar Information Contact List

- | | |
|---|--|
| Alabama State Bar
(205) 269-1515 | Missouri Board of Law Examiners
(314) 751-4144 |
| Alaska Bar Association
(907) 272-7469 | Montana, State Bar
(406) 442-7660 |
| Arizona Committee on Examinations
(602) 340-7295 | Nebraska State Bar Commission
(402) 475-7091 |
| Arkansas Board of Law Examiners
(501) 664-8737 | Nevada, State Bar of
(702) 382-2200 |
| California, State Bar
(415) 561-8303 | New Hampshire
(603) 271-2646 |
| Colorado Board of Law Examiners
(303) 893-8095 | New Jersey Board of Examiners
(609) 984-7783 |
| Connecticut Bar Examining Committee
(203) 568-3450 | New Mexico Board of Bar Examiners
(505) 820-7007 |
| Delaware Board of Bar Examiners
(302) 658-7309 | New York State Board of Law Examiners
(518) 452-8700 |
| District of Columbia Committee on Admissions
(202) 879-2710 | North Carolina Board of Law Examiners
(919) 828-4886 |
| Florida Board of Bar Examiners
(904) 487-1292 | North Dakota Bar Admissions Administrator
(701) 224-4201 |
| Georgia Board to Determine Fitness of Bar Applicants
(404) 656-3490 | Ohio Admissions Office
(614) 466-1528 |
| Hawaii Board of Bar Examiners
(808) 539-4919 | Oklahoma Board of Bar Examiners
(405) 524-2365 |
| Idaho State Bar
(208) 342-8958 | Oregon State Board of Bar Examiners
(503) 630-0222 |
| Illinois Board of Admissions to the Bar
(217) 522-5917 | Pennsylvania Board of Law Examiners
(215) 627-3246 |
| Indiana State Board of Bar Examiners
(317) 232-2552 | Rhode Island, Clerk, Supreme Court
(401) 277-3272 |
| Iowa Board of Law Examiners
(515) 281-5911 | South Carolina, The Supreme Court of
(803) 734-1080 |
| Kansas Attorney Admissions
(913) 296-3229 | South Dakota Board of Bar Examiners
(605) 773-4898 |
| Kentucky Board of Bar Examiners
(606) 253-2733 | Tennessee Board of Law Examiners
(615) 741-3234 |
| Louisiana Committee on Bar Admissions
(504) 566-1600 | Texas Board of Law Examiners
(512) 463-1621 |
| Maine Board of Bar Examiners
(207) 623-2464 | Utah State Bar
(801) 531-9077 |
| Maryland Board of Law Examiners
(410) 514-7044 | Vermont Board of Bar Examiners
(802) 828-3281 |
| Massachusetts Board of Bar Examiners
(617) 482-4466 | Virginia Board of Bar Examiners
(804) 786-7490 |
| Michigan Board of Law Examiners
(517) 33406992 | Washington State Bar Association
(206) 727-8209 |
| Minnesota Board of Law Examiners
(612) 297-1800 | West Virginia Board of Law Examiners
(304) 558-7815 |
| Mississippi Board of Bar Examiners
(601) 359-1268 | Wisconsin Board of bar Examiners
(608) 266-9760 |
| | Wyoming State Board of Law Examiners
(307) 632-9061 |

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SCHEDULE OF CLASSES

San Diego • LIVE LECTURES

Monday, March 28, 1994 • 6:00 pm to 11:00 pm
CIVIL PROCEDURE
 Includes Civil Procedure I and Civil Procedure II
PRICE: \$65.00 • GROUP RATE: \$60.00
 (Regularly \$100.00)

Tuesday, March 29, 1994
 6:30 pm to 10:30 pm
CONTRACTS II-U.C.C.
 (Assignments/Delegations,
 Third Party Beneficiaries,
 Conditions, Breach, Remedies)

Wednesday, March 30, 1994
 6:30 pm to 10:30 pm
TORTS II
 (Negligence Defenses, Strict Liability,
 Vicarious Liability, Products Liability,
 Nuisance, Misrepresentation, Business
 Torts, Defamation, Invasion of Privacy)

Tuesday, April 5, 1994
 6:30 pm to 10:30 pm
REAL PROPERTY II
 (Sale of Land, Recording Act, Easements,
 Covenants, Equitable Servitudes, Eminent
 Domain, Landlord/Tenant Relations)

Wednesday, April 6, 1994
 6:30 pm to 10:30 pm
CONTRACTS I-U.C.C.
 (Formation, Defenses,
 Breach, Remedies)

The Pre-Registration Price for Each Seminar Other than Civil Procedure is: **\$50⁰⁰**
 Registration at Door if Space Available: **\$55⁰⁰** • Group Rate: **\$45⁰⁰**

(Group Rate available to groups of 5 or more who register together at least one week before the desired seminar.)

Courses will be held at California Western School of Law, 350 Cedar Avenue, San Diego

March 28 & April 6 classes will be held in the Auditorium, March 29, March 30 and April 5 will be held in Room 2B

Mission Valley Inn

Friday, April 22, 1994
 6:30 pm to 10:30 pm
REAL PROPERTY II
 (Sale of Land, Recording Act, Easements,
 Profits & Licenses, Covenants,
 Equitable Servitude, Eminent Domain)

Saturday, April 23, 1994
 1:00 pm to 5:00 pm
CONTRACTS II-U.C.C.
 (Assignments/Delegations,
 Third Party Beneficiaries,
 Conditions, Breach, Remedies)

Sunday, April 24, 1994
 9:00 am to 1:00 pm
TORTS II
 (Negligence Defenses, Strict Liability, Vicarious
 Liability, Products Liability, Nuisance,
 Misrepresentation, Business Torts, Defamation,
 Invasion of Privacy)

Sunday, April 24, 1994
 5:30 pm to 9:30 pm
REMEDIES II
 (Damages, Rescission,
 Restitution, Reformation,
 Specific Performance)

The Pre-Registration Price for Each Seminar is: **\$50⁰⁰** • Registration at Door (if Space Available): **\$55⁰⁰**
 Group Rate: **\$45⁰⁰** (Group Rate available to groups of 5 or more who register together at least one week before the desired seminar.)

All courses will be given live at the Mission Valley Inn, 875 Hotel Circle South, San Diego

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Mr. Fleming's experience includes the Lecturing of Pre-Law School Prep Seminars and First, Second and Third Year Law School Final Reviews. He is the Organizer and Lecturer of the Baby Bar Review Seminar and the Founder and Lecturer of the Legal Examination Writing Workshop. Both are seminars involving intensive exam writing techniques designed to train the law student to write the superior answer. He is the Founder and Lecturer of Long/Short Term Bar Review. In addition, Professor Fleming is the Publisher of the Performance Examination Writing Manual, the Author of the First Year Essay Examination Writing Workbook, the Second Year Essay Examination Writing Workbook, and the Third Year Essay Examination Writing Workbook. These are available in Legal Bookstores throughout the United States.

Mr. Fleming has taught as an Assistant Professor of the adjunct faculty at Western State University in Fullerton and is currently a Professor at the University of West Los Angeles School of Law where he has taught for the past eleven years.

REGISTRATION FORM

(Please Type or Print)

Name: _____

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Telephone: (_____) _____

Law School: _____ Semester in Which Currently Enrolled: _____

Seminars and Locations to be Attended: _____

Form of Payment:

- ☐ Check ☐ Money Order (Make Payable to: Fleming's Fundamentals of Law)
☐ Visa ☐ MasterCard (Additional 3% Service Charge for MasterCard/Visa orders)

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Motions Survey: The Official Results are In.
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EXTRA LEGAL

Computer Corner: Potential for Confusion Alleviated.
Page 14

ONE EDITOR'S VIEW

Street Law Revisited: Purpose of Law School Revealed

BY ELIZABETH GENEL

Yesterday I figured out why I went to law school. No, it wasn't to win the coveted "You Talk Too Much In Class" award, for which, I am happy to announce, I did receive honorable mention. I think it's thinly veiled as the "Best Class Participant" or something lame like that. I know what it really means. Anyway that's not what brought me to the hallowed halls of USD. Nor was it, contrary to Christie Graves' opinion, to meet my fabulous mate. Which I did. Yesterday I discovered I came to USD so I could participate in the Street Law program. I've been in the class all year (only receiving 2 credits for a year long class which requires lots of time and energy I might add) and its taken me this long to figure it out. Actually in fairness to myself, and to Iris, the woman I co-teach with, we never had a class like we did yesterday.

A little history might help. Street Law is a class that is offered to a select group of students who demonstrate psychic abilities...no I'm kidding, who demonstrate a committed interest in preparing for a semester to go down to San Diego High School and teach a bunch of high school seniors about law. Let me assure you this is no easy task. It's not like you sit around in the library, research some topic and lecture about it, pausing every once in a while to embarrass some student by calling her by her last name and quizzing her on reading she obviously has not done. No, it is not that simple. You see, you must make your topic of discussion interesting to a group of high school students, without the luxury of being able to pre-assign reading. Oh, and you can't lecture.

"How do you teach a class without lecturing?" You may wonder. So did we, but we learned with Professor Hartwell's help, and from each other, how to accomplish this Herculean task. Basically we spent the Fall semester learning tricks of the trade from some very qualified people. We learned how to become culturally competent. Meaning how to be sensitive to students who have various cultural backgrounds and who may respond to us in different ways. We learned how to split students into small groups to encourage discussion. (And you thought Hartwell and Snyder were born knowing such things.) We learned about different aspects of different areas of law which younger high school students just trying to get their high school diploma and get out of school might be interested in. And we learned lots of ice breakers. Remember, no lecturing means we couldn't just walk in the first day of class and start talking to them about Civil Procedure, or Property.

The most important thing we learned is how to teach without lecturing. Well, without tooting our own horn, the members of Street Law are doing fabulous. Every Monday we meet for two hours to discuss how our classes are going, to share helpful hints, like what works and what doesn't, and in mine and Iris' case, to pilfer good ideas and organized lesson plans from our ever prepared colleagues, which would be everyone but us.

Please Turn To Page 15, Column 1

MY SIDE OF THE STORY

Beware the Ides of March: And the 16th and 17th Ain't So Hot Either

"Poverty is the mother of crime."

Marcus Aurelius Cassidorus

"People will do odd things if you give them money."

David Byrne

BY S.P. JONES

The establishment would like you to think that there are no such things as Leprechauns and large bounties at the end of Rainbows, but I have two bruised ribs, a black eye and a handful of criminal allegations to prove otherwise. It was around March 15th when I came in contact with a group of disenfranchised leprechauns, planning a heist. Seems as though they had grown greedy and were lookin' for a little bit of what they felt was due 'em.

Well they caught me at a particularly weak moment; the night before our doomed meeting, I was filling out school loan applications for the next school year and had spent the majority of the evening in the depths of an emotionally scarring bout with finances and Irish Whiskey, as such, the next day I was particularly susceptible to wicked ways. It is a rather flimsy judicial system that fails to recognize my mental preoccupations as a complete defense to burglary and various other trumped up charges. For example, the prosecution says there were no leprechauns, that I was merely hopped up on hallucinogens. They say that I had broken into someone's house, tied up the residents, danced a little jig, and sung "When Irish Eyes are Smiling". They say that I had severely beaten a paperboy near the garbage bins behind a Jack-In-The-Box while singing show-tunes, and, to top it off, they say the treasure I thought I had stolen was in fact somebody's bronzed baby booties. Hard facts are hard to refute, but I'll find a way, for the stories they are threatening me with are a pack of lies.

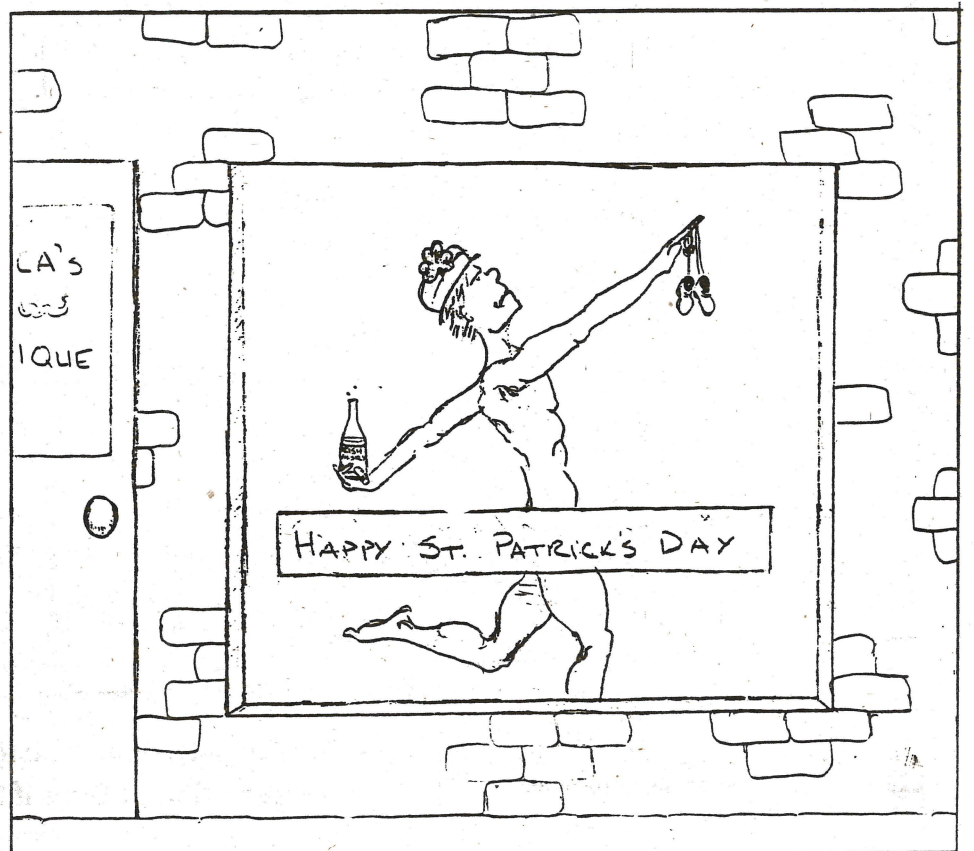
In time, justice will be served, I shall be free. In time I will find those treacherous green rascals who turned me in. Retribution shall be mine sayeth Mr. Jones. However, all that must wait, for it is this crooked system I now find myself facing, along with these four jail cell walls. All I have now are my memories. In my mind I keep pouring over my dealings with the previously mentioned scheming group of leprechauns. The leader's name was Commandant McPheeters, and our sordid and ill-fated association had begun over a plate of Big Macs, five cups of Bailey's-soaked Shamrock Shakes and an illicit desire for a pot of gold. They presented me with a deal too sweet for my indebted soul to pass up.

Their plan was brilliant, and they were in need of another man, someone with a keen sense of timing and style. Well, needless to say, I fit that definition to a T. Seems that I was to play the lead part in a little adventure going by the code name "Guinness, Schminess, I want some gold". Ah, an adventurous quest for loot and me with a need for funds. The notion was perfect, the plan was even better. During the St. Patrick's Day Parade, while the Irish were out playing, I was to steal away into a house on McDougal Street, sing "Danny Boy" while standing on one leg, take a couple

shots of Irish Whiskey, spin around three times and then look for a rainbow. Under that rainbow there would be a pot of gold. I was to fill a bag with all the treasure I could and then leave. The leprechauns would wait for me in a pub downtown. It was there we would divvy up the loot.

protests and whining. "Good riddance and good day," I said as I dashed out the door. With the money in hand, I made my way to the meeting spot.

When I arrived at the bar downtown, I realized the little fellows had ditched me. They were nowhere to be seen. Well tough



The execution was less than perfect, but it was effective. Seems the Irish on McDougal street don't celebrate St. Patrick's Day, so when I arrived at the house, it was still occupied. I am told by the authorities that my little caper actually took place on March 16th. Of course that had to be a lie, because, on the day of the heist, I could swear I saw someone wearing green and what other reason could there be for that. Ah, the authorities are cunning, but not cunning enough, I will not be made to look foolish at the hands of those with lesser minds. The caper went down on St. Patty's Day and I happened to be robbing a house of unpatriotic Irish Elves. Of course when I entered there was a bit of trouble, but nothing that I couldn't handle. There were quite

The peaceful negotiations broke down during a heated argument over whether MacGyver was Ireland's patron Saint of Ingenuity, I said yes and the little fools said no. I could see that the little green bastards were about to make their move. They had to be dealt with and dealt with in a big way.

a few of them, so the situation called for drastic measures, it was under this pretense that I dropped the whiskey bottle on someone's head. Not my fault, I say, for it was they who ganged up on me, and it is upon this ground that I base my counterclaim for damages. Anyway, either way the trial goes, I still have the satisfaction of besting them on the field of battle. After giving the residents a thorough trouncing, I made off with the gold, under their fervent

luck for them, I had the gold. I immediately went up to the bartender and tried to fence the loot. He tried to imply that he did not do such things, but I knew better, he had been tipped off not to do business with the "tall guy". Those little devils had shown their cards, and the cards were talking in spades: the double-cross was on. However, without a fence, I was forced to deal with those damned leprechauns. I left the bar and began my search for them. I knew to watch my back, they may have me beat in shear numbers, but I had a slight height advantage. I found them hunkered over a slew of Shamrock Shakes and smelling of clovers at the McDonalds where first we met. They were obviously drunk. I told them that I had the loot, and attempted to play nice by giving it to them. I knew that once they got the gold they would kill me, for my usefulness would have run dry. My only hope was to negotiate with them calmly, not show any signs of mistrust and then bolt for the door when I got my cut. There was no way they would try to kill me in a crowded restaurant, they would have to get me when I went out the door. I took a gamble and rolled the dice, they came up snake eyes.

The peaceful negotiations broke down during a heated argument over whether MacGyver was Ireland's patron Saint of Ingenuity, I said yes and the little fools said no. I could see that the little green bastards were about to make their move. They had to be dealt with and dealt with in a big way. Any sane member of society could see that the situation was ripe for violence. I threw back the table, kicked my chair away from me and with my feet moving and my fingers snapping, I began to sing and scream, "When

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SPORTS BEAT

Baseball 1994: American League Spring Training Preview

BY ERIC SIEGLER

As Spring training nears a close and the smell of Dodger dogs are in the air, it is time for the season preview. 1994 brings us realignment in the major leagues. Instead of two divisions in each league, there are now three. Instead of only the first place team in each division making the playoffs, now there will be one wild card in each league making four playoff teams in each. Don't worry if you think that makes too many games to watch because you will only be allowed to see one playoff series. The networks in their ultimate wisdom have decided that we only want to see the regional games so if you are an east coast fan, you will have to go to a bar and hope they have your game.

American league.

We start in perhaps the toughest division in baseball. The only change in the American League East due to realignment was the loss of Cleveland and Milwaukee. Cleveland finished 6th last year and Milwaukee has averaged nearly fifth place over the last five years. Here are some the team capsules in my predicted order of finish. With Toronto, Baltimore, Detroit, New York, and Boston, this division will be the only five team race in baseball. Look for the second place team to get the wild card.

The division favorite on paper has to be Baltimore. After staying close until a September collapse last season, **Baltimore** showed a commitment to winning by entering the free agent fray in a big way. Joining the Orioles in 1994 are Rafael Palmiero, Chris Sabo, Lee Smith and Sid Fernandez. All 4 players have been on at least one all-star team and the only downside is their injury history. Sid Fernandez has already suffered the same elbow injury that has held him to only one full season in the last four years. If he can get healthy, the Orioles should rebound from a mediocre 4.34 ERA. Mike

Mussina won 14 games last year despite injuries and Ben McDonald finally had the strong year the Orioles hope he can repeat. Comeback player Jamie Moyer hopes to repeat his performance and young Arthur Rhodes will have to show his kahunas to recover from the pounding he took last season. Beyond the starting rotation, the Orioles relief was fifth best last season and should be better. Lee Smith replaces Greg Olson as the closer and will have veterans Mark Eichorn and Alan Mills setting him up. If the pitching holds up, the offense should score some runs. Chris Hoiles and Harold Baines posted .300 Avg and 20 + HRs to go with Palmiero's .295, 37. Sabo solidifies an infield that also includes Ripken. Second base is a glaring hole and no one knows who will step up. If the Orioles stay healthy, this could be their year....If.

What happens when a team that is supposed to finish last puts together a strong season and finishes 2nd after a tight race? Well they go out and get the few players needed to turn a young team into Champions. Joining the **Yankees** in 1994 are Terry Mulholland, Luis Polonia and Xavier Hernandez. Polonia brings speed to the leagues number 2 offense. He had 55 steals last season while the Yankees only had 39 as a team. With Mike Stanley becoming only the fifth

catcher in the history of the American League (Chris Hoiles was the fourth) to hit .300 with 20+HRs, the Yankees hit Home Runs second only to Detroit. Everyone contributed including Tartabul, O'Neil, Mattingly, and Pat Kelly. Mattingly is tearing up spring training and says his back finally is pain free. The pitching was led by lefty Jimmie Key who loves pitching in Yankee Stadium posting a 2.75 ERA at home. Terry Mulholland should also like Yankee Stadium which favors lefties. Both have impeccable control with Terry walking 1.9 batters per 9 innings in Philadelphia and Key only 1.6 per 9 in NY. Jim Abbot and Melido Perez struggled last season but should rebound if healthy. Bob Ojeda looks solid this spring after the shock of his friends' death last season. After posting the best bullpen in baseball in 1992, the Yankees had the next to worst bullpen in 1993. Howe went from unhittable to batting practice and the rest were no better. Xavier Hernandez will close with Jeff Reardon in the wings. The youngsters Bob Wickman and Sterling Hitchcock will set up while waiting for their chance to start.

After three straight league titles and 2 straight world series rings, the **Blue Jays** are in for a fall. Gone are Rickey Henderson, Jack Morris and Tony Fernandez. Joe Carter will miss the beginning of the season with a broken thumb suffered in spring training. Roberto Alomar is recovering from an off season broken ankle. The offense with Carter boasts the best five hitters of any lineup. Alomar, White, Olerud, Molitor and Carter are proven stars. Olerud is capable of duplicating his season long challenge at .400. The rest of the lineup is questionable. Borders has never hit and

Carlos Delgado is not ready to replace him even after his strong AA performance. Shortstop is handed to another AA player Alex Gonzalez who at 21 is one of the top prospects in baseball.

Ed Sprague posted solid numbers at third but will need to repeat them this year. The offense had better score a lot of runs because their starting pitching was 10th in the AL last year and will be no better. Juan Guzman is the ace but beyond him Dave Stewart and Pat Hentgen are weak. Todd Stottlemeyer has never met his potential and Al Leiter cries over each blister. Duane Ward stepped up as one of the top closers in baseball in the best bullpen in the AL but has battled injury all spring.

Detroit hits lots of Home Runs but strikes out one every four at bats. Their pitching staff is anemic and old led by 32 year old Tim Belcher who steadily declines year to year. The rest of the over thirty staff was twelfth in the league. Hennemen is a closer but the rest of the bullpen scares no one. The only reason they win games is because eventually either Fielder, Davis, Tettleton, or Fryman make contact and drive the ball out of the park. 6 out of 8 starters in the batting order are over thirty and have shown a decline over the past three years. Right field is open and neither 25 yr old Culyer or 21 year old Bautista has impressed this spring.

Boston managed the best pitching staff in the East despite Roger Clemens

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Baseball Preview

(Continued From Page 12)

struggling to an 11 win 4.46 ERA season. If he is healthy the Red Sox have a strong staff with Viola, Sele and Darwin. Maybe Detroit and Boston could combine and field one all around team. The Red Sox had no offense in 93 as they were second to last in HR's and 12th in Runs and Stolen Bases. The addition of Otis Nixon will increase the steal totals but only Mo Vaughn hit over 20 homers last season. If they find some offense Boston could challenge but in such a tough division, last place isn't that bad.....

The AL Central isn't as deep but **Chicago** is one of the best teams in baseball. We won't see Michael Jordan this season but we will see superstud Frank Thomas along with Raines, Ventura, Guillen and Johnson. This offense struck out the fewest times of any team in baseball. Newcomers Julio Franco and Darrin Jackson hope to provide a little more power. Not that the best pitching staff in the AL needs much run production. Jack McDowell, Wilson Alvarez and Alex Fernandez were so strong that Chicago could bring in youngsters Bere and Ruffcorn to the already youthfull staff. The White Sox saved 83 % of their save opportunities led by Roberto Hernandez.

Cleveland has finally escaped the AL East and it couldn't be a better time. The death of Tim Crews and Steve Olin took its toll on the Indians but the youngsters took the time to mature. Kenny Lofton is now the best leadoff hitter in baseball and could steal 100 bases. Albert Belle learned to take his frustrations out on the baseball instead of the fans and promptly hit 38 HRs. Additions Eddie Murray and Omar Vizquel bring leadership and defense to ex-Padre Carlos Baerga and injury plagued Jim Thome. The starting pitching was the worst in the league last season but Dennis Martinez and Jack Morris should provide veteran leadership.

Remember that although Morris has not posted great numbers in a while, in ten years his team has won the division 5 times and never finished lower than third. Nagy has the pressure off him and if healthy could have a big season. The bullpen by committee approach posted the second best ERA but the second worst save percentage at 63%.

Kansas City has done little to improve over last seasons third place finish. Only Vince Coleman looks to help if they keep him away from firecrackers. The lack of media attention in KC should help. He only had a .316 On Base Percentage last season which is horrible for a leadoff hitter. The Royals had no 20+HR hitters on an offense that was last in runs, RBIs and walks. The bright spot is the super defense led by Brian McRae that made only 97 errors. Closer Jeff Montgomery posted a 72 % save percentage closing games for Cone, Appier and Gordon who had the fourth best starters ERA. They really need one hitter who can take it deep.

Minnesota did nothing right last season with both hitting and pitching ranked at or near the bottom of the league. Aguilera struggled as the closer and starters Scott Erickson, Kevin Tapani, and

Pat Mahomes all had 5.00+ ERAs. Puckett, Mack, Winfield and Hrbeck are aging but still strong hitters and 25 yr old Chuck Knobloch has developed into a top notch 2nd baseman. The loss of .300 hitter Brian Harper at catcher will hurt.

With perennial all-star Robin Yount retired, **Milwaukee** can't find the stairs out of the cellar. The saved only 56 % of



their games and had a league worst 29 saves. Their closer Doug Henry had a 5.56 ERA and their starters all posted ERAs over 4.00. Only Greg Vaughn's 30 home runs provided any glimmer of hope as Pat Listach hit the sophomore jinx after his rookie of the year season. The Brewers are young but without Yount have no leadership. Last place should be theirs to lose again.

The weakest division in perhaps all of baseball is the **AL West**. Only one team in this division won a championship in the last five years and last year they (Oakland) finished in last place with the worst record in the AL. **Texas** looks to run away with this division if they get some pitching from Kenny Rogers and Kevin Brown. Rogers and Brown put up strong numbers and will be supported by Bruce Hurst and 26 year old Roger Pavlik who is ready to make an impact.

Juan Gonzalez developed into the best hitter in the AL posting a .310 average and slugging 46 home runs. It took him less than three seasons to hit 100 homers which is just one similarity to Joe Dimaggio. Remember he is only 24 and has improved each season. Will Clark joins the Rangers and most people forget he is only 30 years old. The rest of the team is young but solid as exemplified by 22 year old gold glove all-star Pudge Rodriguez. This team will be a force in the 90s but may have to wait a year for that world series ring.

If any team challenges Texas in this division, **Seattle** could finally be the one. They finished above .500 for only the second time in their 16 year history. Randy Johnson is the premier fireballer now that Ryan is retired. When hitters can see his pitches, they are usually coming right at their heads. Even the best hitters are afraid of a 96 MPH fastball. Bosio Salkeld and Fleming make a good staff but there is no depth if someone gets hurt. We may see Japanese star Matt Suzuki by seasons end. Ken Griffey Jr is the Barry Bonds of the AL. If anyone doubted the 24 year olds ability, he put it to rest with his finest season hitting .309 with 45 HRs and 109 RBI. He also

scored 113 runs and stole 17 bases. They will need Edgar Martinez to rebound from injuries and find other players to support Griffey. They also need someone to step up to close for the league's worst bullpen.

California spent 1993 rebuilding and saw some bright spots that included rookie Tim Salmon and youngsters Chad Curtis and Damon Easley putting up good numbers. JT Snow started out on fire hitting 10 HRs in April but by the end of July he was in the minors with a .218 batting average and still only 10 HRs. when he returned in September he hit a solid .286 and may be ready to try again if they don't trade him for a starter. Salmon hit 31 HRs while Curtis stole 48 bases and Easley hit .313. The pitching has Langton, Finley, Magrane and pray for Rain. With Steve Frey gone, Joe Grahe must step up as closer.

Oakland collapsed last season with Eckersley saving only 65% of his opportunities. Reuben Sierra and Mike Bordick slumped while Mark McGwire sat the bench with injuries.(84 AB) Darling, Witt and Welch lead the worst staff anywhere other than Colorado. Van Poppel has yet to show why he was the Number One draft pick only a few years ago.

Next Issue: *The National League*

Sports Corner

BY ERIC SIEGLER

NCAA-Upsets Baby, BC beats NC, Maryland beats UMass, Tulsa beats UCLA(HAH) and more more more. In a year that saw seven number one teams, only Arkansas and Duke remain. Glen Robinson scored 40 points and got the Mavericks drooling for that number one pick. The centers have been disappointing with Montross and Rozier looking sluggish on the court but the guards Grant Hill and Khalid Reeves look strong. UConn's Donyell Marshall is raising his NBA stock and young Joe Smith is impressive. All my predictions are gone so I won't jinx any more teams.

NBA-Starks is gone and the Knicks have won 11 in a row with Hubert Davis stepping up. I told you Starks wasn't a team player. Mourning and Johnson are back and that last playoff spot is near but wouldn't Charlotte love a lottery pick? How about the Lakers. If Magic can keep them out of the playoffs, they could end up with a good pick as well. Van Exel has been impressive and so has George Lynch. Finally, if all goes well, the Mavs will add Robinson to a team that has Mashburn and Jackson. If they can't put a winning season together then, they should fold.

Hockey-Here come my Devils! Only three points behind the folding Rangers who in a flurry of panic traded half their starting line for some solid help. If they find their chemistry then maybe but remember the Rangers are destined to lose in the playoffs. Go Gretzky

Football-2 point conversion, longer kicks, coach-QB radios, the NFL is trying to return to a touchdown oriented game. Think the salary cap and free agency hasn't hurt teams, the Chargers lost Anthony Miller because they couldn't afford him. The Cowboys will likely lose Ken Norton, Alvin Harper and Darryl Johnston too after losing John Gesek. I like competitiveness but part of what makes sports interesting is the dynasties and rivalries that form from having the same players for years.

THE SURVEY SAYS...

The First Annual Motions Third Year Student Survey

BY TOM TURNER

Thanks to the priceless input of those brave enough to dare tackle the First Annual Motions Third Year Survey (about 30 out of 300), we now have a documented record of our years of law school. Sure, when we graduate, we get a diploma. Some of us may get jobs. Yet, neither of those answers the question who had the best hair, does it?

A quick introduction. First, the winners represent the most popular responses given. There's been no weighting of answers and no censoring of possibly embarrassing outcomes. Second, remember that I am merely the messenger. So, if your responses didn't win/you won something you didn't want to, please don't blame me. Third, keep in mind that this was done for fun, not to ruin the good the name, opportunity for tenure or future political aspirations of those involved. And lastly, as usual, no wagering.

In the Professor category:

- Best USD Professor** - Professor Huffman
Honorable Mentions - Professor Spearman, Dean Strachan and Dean Shue
- Most Entertaining Professor** - Professor Cole,
Honorable Mentions - Professor Nolan, Dean Strachan and Professor Spearman
- Best Dressed Professor** - Professor Kelly
Honorable Mentions - Professor Alexander
- Professor I Learned the Most From** - Professor Huffman
Honorable Mentions - Professor Wirtz, Professor Simmons, Dean Strachan and Professor Spearman
- Most Organized** - Professor Kelly
Honorable Mentions - Professor Simmons and Professor Morris
- Least Organized** - (tie) Professor Schwarzschild and Professor Alspaugh
- Fastest Talker** - Professor Simmons
Honorable Mentions - Dean Strachan and Professor Engfelt
- Most Likely to be the Subject of a "60 Minutes" Story** - Dean Strachan

In the Third Year category:

- Loudest Voice** - Iris Eytan
Honorable Mentions - Renae Adamson and Michel Duquella
- Feminist Most Likely to Talk About Her Boyfriend** - Denise Hickey
- Most Likely to Offend the PC** - Tim Earl
- Person You Would Most Want to Represent You** - (tie) Geoff Graves and John Callahan
Honorable Mentions - Ed Pernal, Mike Morehead, Brenden Griffin, and Geoff Morrison
- Best couple** - Suzanne Strong & Paul Smigliani
Honorable Mentions - Mike & Kelly Morehead, John Callahan & Kathleen Brennan-De Jesus and Geoff Morrison and Catherine Cottis
- Best Fantasy Couple (That Never Was)** - Brad Fields & Tannaz Mokayef
Honorable Mentions - Sunil Daluvoy & Nicol Ciafre
- Most Eligible Bachelor** - Tom Turner(!)
Honorable Mentions - Bob Cocchia and Sunil Daluvoy
- Most Eligible Bachelorette** - Nicol Ciafre
- Friendliest** - Michel Duquella
Honorable Mentions - Quisteen Shum, Dave Jackowitz, Sunil Daluvoy and

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THE CORNER OF COMPUTER SAVVY

Getting the Most (Usable) Computer Bang for Your Buck.

BY CHARLES BOULDIN

You, a poor law student, want to buy a computer?

Yet, you only have limited funds?

Many of us have determined that we need a computer to succeed in law school. True or not, use the questions below to determine what, when, and how much you should expect to spend in acquiring a computer system that will suit your needs.

The your choice for a personal workstation world can be divided up into three areas: Followers of Macintosh, bottom line driven DOS/Windows users, and oddities.

Followers of Macintosh are nearly religious in their zeal and proselytizing about the goodness that is Macintosh. They think the same way the designers of the Macintosh did: KISS (keep it simple, stupid!) Apple designed the Mac to minimize the learning curve, require a consistent set of commands for all applications, and permit plug and play (plug in your modem, printer, mouse, keyboard, etc. and click on the apple icon and activate the chooser or control panel as appropriate and voilà, it is ready to be used). The result is an easy to learn format where skills once learned, applies generally to all the software available for the Mac.

Mac users quickly acquire the majority of skills and commands. Microsoft Office is THE package of choice, containing Microsoft Word (the hands down winner for word processing for the Macintosh), Excel (the number one spreadsheet program for both Macintosh & Windows), and other programs as well.

The Mac has some drawbacks. You pay approximately \$400 more for the hardware because Apple is the only maker of Macs. The Mac is slower than a comparable DOS/Windows machine. Programming for the Mac is more involved, so there are as many programs available as there are in the DOS/Windows area. Too, the ease of learning means that when you want to do something out of the ordinary, it is nearly impossible to do it.

A current major concern for Mac users problem is the PowerPC chip. Now, now! Your eyes cannot glaze over that quickly! Though this seems arcane, you should be aware of the type of brain your computer uses. The PowerPC will remedy the disparity in speed and cost mentioned above. Eventually it will enable Mac laptops to operate for more twice the time it can currently on one battery charge. The advent of this chip also means that non top of the line Macs will be scaled back in price. The problem is when to act. If you can wait for the end of summer, you should benefit from the effects of the PowerPC chip even if you choose a non PowerPC Mac.

The current wisdom is that you can get the most software and hardware BANG for your money by buying a DOS/Windows machine. It is very easy to program and there are a multitude of competitors. This means that you can stretch your dollars and there are a multitude of competitors. This means that you can stretch your dollars and there are a multitude of competitors. The flip side of this is that this plethora of competitors brings with it instability. If you go with a no name brand, you are a the whim and mercy of that company. If it stays in business, you are fine; if not, well, the old saw of "you get what you pay for" holds once again. The pivotal point is between inexpensiveness and support. Some companies sell their systems for half of what the big names charge. Yet these big names have at least one year of technical support and hardware warranties.

My typical recommendation is to err on the side of the bigger companies because: the have market staying power (they will be there next year), their service agreements reach anywhere in the U.S., and their support staff is reasonably well trained.

Names like Dell, Compaq, Gateway, AST, and IBM make up the first tier of the workstation market. The membership roster is different for portables: IBM, Texas Instruments, Toshiba, Compaq.

Determine if you are a Mac or DOS/Windows type person. Do you need to just get the job done, or have you need for a great deal of flexibility? Additionally, some packages are only available currently on one platform or the other.

Most law students only need (for law school) to run a word processor, Westlaw, and Lexis. Anything beyond this is a want.

Needs

CPU: Is speed a consideration? If you are running Windows, a 80486 running at 25 MHz is a recommended minimum. For Macintoshes, a 68030 is recommended.

Laptop? Balance your need for speedy Windows versus battery life. These are inversely proportional.

Monitor; also known as: How much do you value your eye sight? Good monochrome is preferable to mediocre color. 64 Grayscale for laptops. SVGA (Super Video Graphics Adapter) for DOS/Windows machines. Mac-o-philes skip RAM below. Just buy the Apple monitor.

Not all monitors are created equal. NEC, Mitsubishi, and IBM are good places to begin your comparison. Non Interlace is better than Interlace. The maximum refresh rate should be at least 72 Hz (800x600 SVGA display). The smaller the dot pitch the better (the granularity of the individual pixel or "dot" that makes up the picture on the screen). I recommend .28" or smaller. For workstations, 15" is recommended.

For color laptops, Dual Scan is a minimum, Active Matrix is better (and of course more expensive). IBM's active matrix is the industry paragon. Few others measure up.

RAM. This is volatile chip memory. A minimum of 4 megabytes is a must.

Storage Devices. This is non volatile memory comprised of hard drives and floppy drives. For DOS/Windows, get one of each: 3½" 1.44 MB floppy drive; 5¼" 1.2 MB floppy drive; and a hard drive with a minimum of 120 MB and a minimum access time of 17 ms. For Macintoshes, the 3½" floppy drive and a hard drive with a minimum of 100 MB.

Keyboard. The feel is important to some. If you are a speed typist or just a touch typist with an attitude, Northgate sells one of the better conventional 101 keyboards. The keyboard today has either the function keys across the top, along the side, or both. Most software is now being designed for keyboards with the function keys across the top. For those afflicted with carpal tunnel syndrome or have a repetitive motion injury, there are two major keyboards available: Dvorak and Kinesis. They are not cheap, though.

Modem. Name brands mean less headaches. Hayes, U.S. Robotics, Practical Peripherals, Intel, Boca, and Microcom are the big players. For the budget conscious, a 2400 baud internal modem is the way to go. Less than \$60. External for less than \$80. For the technophile who wants to minimize download time from Lexis, Westlaw, and their e-mail account and be able to send and receive fax documents from their computer, a 14,000 baud modem which complies with V.32, V.32bis, V.42, and V.42bis protocols is the answer for under \$170 for the internal version and under \$200 for the external version.

Printer(s). Dot matrix is cheap, noisy, and durable. Look to Panasonic or Epson for a nine pin for under \$150, for a twenty-four pin for under \$250. Laser printers are fast, quiet, and professional. Hewlett



Belinda Etezad Rachman Says

*The People United Can
Never Be Defeated!
Power to the People!*

Those of you who eat in the Ritz will have noticed, there is a new refrigerator for all of us to use thanks to the generous proclivities of the law school faculty. If you have followed my articles and columns each month you will know that I am the one who lit and fanned the fire of discontent these many months in print and at SBA meetings each week to make sure we got a new refrigerator this year. It only goes to prove that the squeaky wheel gets the grease and the efforts of one person can make a difference to a community.

Now that I have tackled and won this fight I was thinking that if we all got together and worked on one issue maybe our collective will could make big things happen. As Jim Morrison said, "You've got the guns, but we've got the numbers." How about a school wide, if not just a law school wide movement to demand more parking space? There is a rumor that the archdiocese is moving which should free up some parking for the rest of us heathens. If nothing else it is in our best interest to insist that the lot between Warren Hall and the library be reserved only for law students (with our own sticker to insure that non law students parking there will feel the wrath of the parking enforcement police). But since I've always subscribed to the "I won't be free till everybody else is" Theory of revolution I'd rather see a school wide uprising that will pressure the powers that be to provide more

parking for everyone, and not just look out for our own interests.

From what I've seen around school people are just too happy and polite, whether it is the Woman's Law Caucus caving in to demands that they remove the line in their charter about supporting a woman's right to choose or else face expulsion from the campus or the passive response from students forced to get to school hours early or face parking banishment to the outer darkness of car Siberia. What would be so bad about standing up for ourselves and demanding some action in the parking situation? I know that most of you don't have any experience in fighting the powers that be, but believe me, once enough of us marched, had sit ins and screamed to end the Viet Nam war, it happened. There is a critical mass of people that must get involved before change happens in any situation, whether it's getting equal rights or stopping Lego Land. If there isn't popular support and a willingness to get involved, nothing ever happens. The question just becomes, how much do you want change to come? Will you make a fuss? Will you put yourself on the line? I can only hope that there are enough of us that have a fighting spirit in this world to make sure that positive changes happen. A very careful friend and GALLSA member always says you have to chose your battles. But I never see anyone fight for anything around here. Put up your dukes.

Packard still sets the industry standard, though Texas Instruments is mounting a challenge. Prices start at \$700.

Portability. This will be covered in a future issue. Short and sweet: IBM, Compaq, Toshiba, Texas Instruments are the easy answer for DOS/Windows. Macintosh 145 and up, depending on the screen and speed versus battery life argument.

Surge Protection. For under thirty dollars, you can insure your hardware against electrical damage. You are stupid (in my humble opinion) if you skip this.

Operating Systems Software. DOS 6.2 and Windows 3.1 or System 7. OS/2 in place of DOS if you need more speed. If you are running a laptop ask yourself if you really need Windows? It eats significantly into your battery life. Running DOS and WordPerfect 5.1, you can prolong your battery life and get the job done.

Utility Software. If you want to dial up Prodigy, America On-Line, MCI Mail, or the Internet, you will need some communications software.

Norton Utilities. Similar reasoning to the surge protector above, except no warranty. Your floppy disk may crash, you may need to re-organize your hard drive, etc..

Applications Software

Word processing is the major reason most of us buy computers. There are two major and one minor contender for you money: WordPerfect, Microsoft Word, and Lotus Ami Pro. The first two are very close in power, flexibility, and features. WordPerfect still holds the edge for custom legal add-on software. Look for the "Competitive Upgrade" price. You should be able to locate some old editor or word processing software from friends or family.

Spreadsheets. Very useful for torts, divorce asset division, calculating your semester and cumulative gpa, etc. Microsoft Excel or Borland QuattroPro depending on price. Usually you can get QuattroPro bundled with WordPerfect in the Competitive Upgrade for approximately \$200. Microsoft should have something comparable.

Wants

Secondary Monitor. Why would you want a second monitor at \$500? If you are using a laptop as your sole machine, this makes sense if you laptop has the video port. It will reduce eye strain too. See the above discussion about monitors for guidance.

Secondary Keyboard. Laptops are a compromise between size and usability. Many laptops have a port for an external keyboard. Combined with the secondary monitor and you have a great home workstation and a great laptop with only one computer. See the discussion about keyboards above.

Tape Drive. Nowadays, making backups on to floppies is tedious and expensive with hard drives averaging over 100 MB. This is the inexpensive and time efficient way to save you projects, in case of disaster. Colorado Memory Systems or Mountain Tape are the top two. IO/MEGA is good, too.

Scanner. Hey, why type in what you are reading? Scan in exhibits, too, while you are at it. Definitely a toy for the average law student. But still... Large Format. You can scan a page at a time. Color is available at a price. These are NOT cheap. Hand Scanners are portable but a pure toy.

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St. Patricks Day

(Continued From Page 11)

you're a Jet, you're a Jet all the way, from your first cigarette to your last dying day....". My god the presence I must have made. With the grace of a lion I blew through the fight/dance sequence from "West Side Story" and landed my fists upside the face of those mean-spirited, Irish imps. My prowess on the field of battle was both stunning and brutal; these leprechauns sure could take a beating. I had only been embroiled in this little dance of death for a matter of moments, when the cops showed up. Relying on my past experiences with just this sort of unlucky turn of events, I made a run for it.

I ran down the street and ducked into a small clothing boutique. I immediately began to disrobe. The store attendant looked stunned.

"Listen," I said to the attendant, "when the cops show up, you haven't seen me. You got that? You tell 'em, that there ain't no one here but you and these naked mannequins. If you don't? Well I leave that to your tiny, but, hopefully for your sake, ef-

fective, imagination."

With not a stitch on, I climbed into the store window and struck a stunning, modelesque, runway pose. My execution was perfect, and so when the police actually found me I knew I had been set up, those damn green midgets had given me up for their own freedom. I began to curse them aloud and that's when the cops grabbed me. The confrontation was fierce, and if I hadn't been winded from our chase I believe I would have emerged victorious. Fate, however was not so generous. The cops as always fought dirty, and I saw no opportunity for victory. Their batons bounced several times off my face, head, chest and neck area, but the thing that really brought me to the door of unconsciousness was the tazer gun. They hit me with that and I buckled to my knees. A few more "dirty" blows and I was completely down, and in seconds I felt myself being dragged away. Before I passed out naked in the back of the police car, I remember thinking, "Boy, I bet its gonna' be awhile before I recover from that last kick to the Blarney stones."

Motions Survey

(Continued From Page 13)

Yvonne Roche

10. Quietest - Scott Patterson

Best non-response - "Many, merci-fully"

11. Most Annoying Class Participant - "Mostly second year pin-heads"

12. Best class participant - Michel Duquella

Honorable Mentions - Elizabeth Genel and Iris Eytan

13. Least Likely to Show Up to Class - Mark Amador

Honorable Mentions - Andra Deroian

14. Most Likely to Finish an Exam First - Angela Burris

15. Most Likely to Tell You How Little Studying He/She Does - Dustin Branch

Honorable Mentions - Michel Duquella

16. Most Likely to Tell You That Getting a "B" is Great When He or She Got an "A" - Kathleen Brennan-De Jesus

Best non-response - "Anyone who gets an 'A' or 'B' is a knob."

17. Best Dressed, Male or Female - Sunil Daluvoy and Christie Graves

Honorable Mentions - Emilie Dermer, Nicol Ciafre and Dan McNamee

18. Best Hair, Male or Female - Ajay Thakkar and (tie) Christie Graves and Emilie Dermer

Best non-response - "Most Hair - Pete Salmon"

19. Most Likely to Give Up a Public Interest Practice for Big Bucks at a Firm Who wouldn't?

Honorable Mentions - Holly Fabre and Iris Eytan

20. Most Likely to be Mistaken for a High School Student/Most Likely to be Mistaken for a "90210" Character - Greg Weisman

21. Most Likely to be Seen at a Party With a 1L - Frank Bottini

22. Most Likely to be Seen Leaving a Party With a 1L - See #21

Best non-response - "Sober?"

23. Rumor of the Year - "Going to Law School will result in a job" and "Will Nelson and Frances Quevedo are secretly dating."

Street Law

(Continued From Page 11)

Okay, so Lin always has great hand-outs complete with detailed questions for her students to answer, and Robin has her students ready to work for Ralph Nader with their Consumer Law project, and Renae is looking up sentencing guidelines for her students' mini-trials, and Lee edited a bunch of tapes on the Iowa Murder to make them more user friendly, and Cesar and Naomi have their kids so excited all the time they can't shut them up, and Sunil has special guest speakers for his students like a former gang member who has gotten a major handle on his life, and Robert is teaching like 20 classes because his teacher likes him so much, and, have I forgotten anyone? Oh yes, Elizabeth and Iris. Well, let me tell you, we have this teaching thing figured out. On Mondays we listen very carefully to everyone talking about how great this worked, how this other exercise didn't work so well, and we figure out how to adapt all this great stuff for our class.

Let me tell you about our class. We have about 30 high school seniors. All but one are Mexican Americans, most of them first generation, and many of them with their families back in Mexico. Most of our kids speak English, but not all. Our one student who is not Mexican is Vietnamese. He speaks very little English. So how do we teach without lecturing? Well, of course we would be crazy to try and lecture with our kids anyway, but the Street Law rules say you can't anyway. You have to have interactive learning going on. Basically our job as teachers is to expose the kids to something new, something that they find interesting and pertinent to their lives, and to guide them through a learning process where they are learning from each other. We are just tools for them to guide them where they want to go.

On our first day of teaching Iris and I

learned immediately that Hartwell was right. He had told us all that for this program to be a success, you have to take the kids as you find them, at their level, and guide them to places they want to go, which might not necessarily be where you want to take them. Basically you have to be really flexible. Here's a perfect example which brings me to my original point, yesterday I had a vision. Here's what happened.

Yesterday Iris and I were a little nervous because Hartwell was coming to observe. So we did something we never do, we planned the whole 2 hour class. Okay, I'm kidding, we always plan a class, but the kids always end up changing it around, and we don't care because we just want to make them happy and get them jazzed about stuff. But we wanted to show Hartwell how cool we were so we had this whole plan and we were psyched. Well, the gist of the plan was that we were going to have a mini-trial. You know, like the lawyering skills 2 classes. Yeah, you guys think you're so great, our kids blew you all out of the water.

Anyway, because our class is 99% Mexican, I wanted to mention former Mexican presidential candidate Colosio's assassination, to make sure they knew about it and find out what they thought. So I asked the kids if they had heard about it. Well, they went nuts. I mean getting these kids to talk is like pulling teeth. We think its probably because they speak Spanish a lot, and they are embarrassed when they make mistakes in English, but its just our theory, and some of them are really vocal, so maybe its just that some of them are shy. Anyway they were jumping out of their seats to talk about what had happened. So Iris and I figured we were on to something here, so we went with it. So much for Fred the speeding Fireman, our kids were on fire over this, so we started asking them questions about it. What had happened, how did they feel about the President-Elect of

Mexico being assassinated, how would this affect Mexico, the U.S., the rest of the world? What were the political ramifications? The economic ramifications? How is this related to the Law, as in Street Law?

Well, let me tell you. We did a little quick write. A quick write is what we love, because our kids love to write, hate to talk but love to write. So we give them a little topic to write on, for example: Should Colosio's assassin have a fair trial, or just be killed, why, or why not, defend whichever your position is. Basically we are trying to learn the concept of the right to a fair trial. Last week we watched some Menendez brothers trial footage, and asked if they thought the Menendez brothers were full of shit, why or why not? (That wasn't the way we phrased it, but boy did they figure those boys out). Anyway we did the quick writes and read them aloud, and the kids got a kick out of trying to figure out who wrote what. We all concluded that our students would like him to get a fair trial so the authorities could find out who else was involved, then he could be killed. Some students noted that he should suffer, and merely killing him doesn't make him suffer. Another girl said "Who am I to judge another? He must have a fair trial to find out the truth." So as you can see, our students are far more insightful than your average law student.

Here comes the exciting part, We took all this energy and we had a mini-trial! Not your average mini-trial mind you, but a fabulous mini-trial. You see, Iris and I managed to have a guest come to class, the assassin! He came to our class and we put him on trial. Okay, it wasn't really him, it was me, pretending to be the assassin. The kids loved it. We split everybody up so we had five prosecutors, five defense attorneys, a judicial triumvirate, and a jury of fifteen. It was truly a great trial. The defense theory was that I was insane. They were great. They led me through the ins

and outs of my whacky childhood of exploding dogs, and short stays in the hospital for my psychiatric problems. Then, just when the jury was convinced I was a fruitcake and should have my head examined, the prosecution team asks me how much I was paid to assassinate Colosio. One million dollars, I respond. Well, tell me now who looks crazy. Redirect, Luis asks me if I'd kill my mother for one million dollars. I respond affirmatively, and the jury goes out for deliberation. Another quick write, crazy or not, life imprisonment or a nice cushy mental hospital, why or why not. It was great. I mean these kids had it all figured out. Obviously I was lying and just acting crazy so I wouldn't have to go to jail. You know, just like those Menendez brothers pretending to be sorry about their parents. Iris and I were so proud of them. They asked important questions, they weighed the evidence that I concocted, and they figured out the differences between juries and judges.

So, what was my big revelation yesterday? Well really, everybody in law school learns the same stuff. Some people do better on exams than others, but everybody learns the same damn thing. I know that theoretically everyone will get a job, probably most of us as "Lawyers", and we'll sit around in an office answering interrogatories, or writing motions and such, if we're lucky, or un, depending on your view, we'll get to go to court. But who cares? Yesterday I learned how great it feels to share knowledge with people who really appreciate what you are sharing with them. I helped a bunch of high school kids figure out how exciting learning can be. Okay, it was a bonus they learned something about the law, but I'll tell you a secret, I would have been happy if I had been able to help them learn how to bake chocolate chip cookies. It was a really great class, I wish you could have been there.

Computers

(Continued From Page 14)

CD-ROM drive. Need Westlaw but the telephone lines are down? Need a word from the Oxford English Dictionary? Need to look up some scientific fact in Grolier's Encyclopedia? Push a button. This is a burgeoning field. A future article will delve into this area.

Sound card. Stereo sound for games and composing music. A toy for law students. What, you are a composer and a law student? When do you sleep?

Computer furniture. Believe it or not, you can prevent repetitive motion injury (RMI) and eye strain by having your chair, keyboard, and monitor tailored to your exact physical dimensions. If you are not familiar with RMI, for you own health, look into the topic at least in Lexis or

Westlaw for health care articles and CalOSHA guidelines. Eye strain: you only get two. Ever.

Games. Recreation is important, but never during a lecture.

Prioritize the above issues, separating needs and wants and addressing concerns. Take the time to visit a couple of computer stores JUST TO TRY OUT various monitors, keyboards, laptops, etc.. If the salesforce keeps pestering you, leave. You need to first gather enough information to make a wise decision. Then, away from the influences of people seeking a commission, make a list of your top three picks.

Establish a realistic dollar limit. Compare prices from Mail Order, Price Club, and Direct (telephone) as well as local stores. Ask if they have an educational discount.

Plan for the future; i.e., how long do you wish your computer to last? Note that a laptop's lifespan only averages four years. Note, too, that advances in chip technology render chips outdated in eighteen months. This does not mean that the older chips are not useable, simply less expensive and less able to harness the power of newer software.

You may be wondering about the third category (Mac,DOS/Windows, Other). People who have unique requirements and are willing to pay good money to meet them have options from specialized versions of the Mac, OS2/Windows, to Unix. If you fall into this group, you will still need to answer the above questions. Once done, come see me or any other systems configuration specialist. Bring your answers and don't forget your check book.

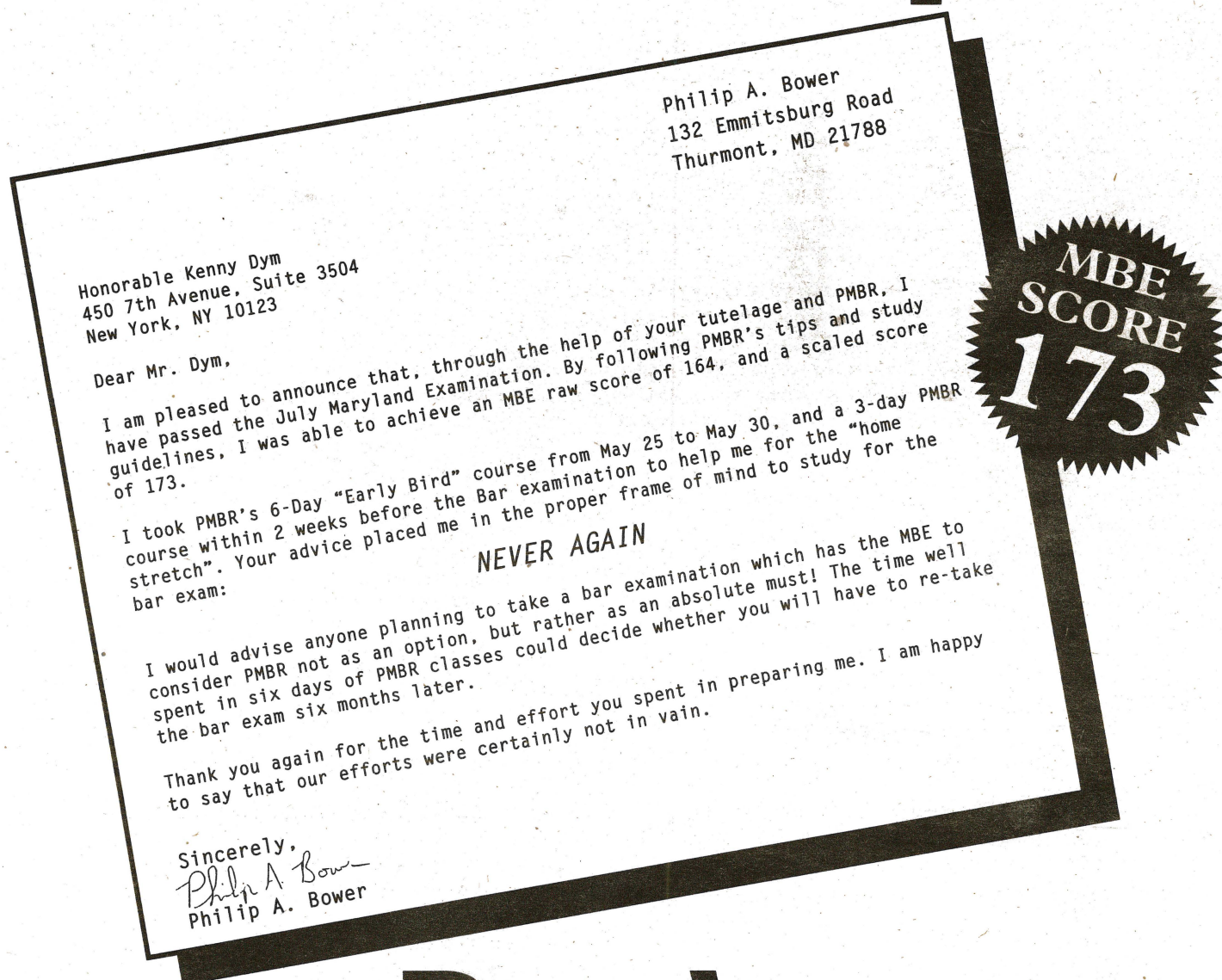
This is only an introduction to the topic. I started this in an effort to provide answers to a wider audience and to reduce the number of times I have to repeat the same information. Too, I need to study Contracts, Civ. Pro, etc., just like the rest of you.

If you have questions, please submit to the Corner of Computer Savvy. Otherwise, choose your computer consultant carefully. You get what you pay for.

Address your correspondence to:

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